

FY 2013 Final Report

National NAGPRA Program

National Native American Graves Protection and Repatriation Act (NAGPRA) Program
U.S. Department of the Interior
For the period October 1, 2012 – September 30, 2013

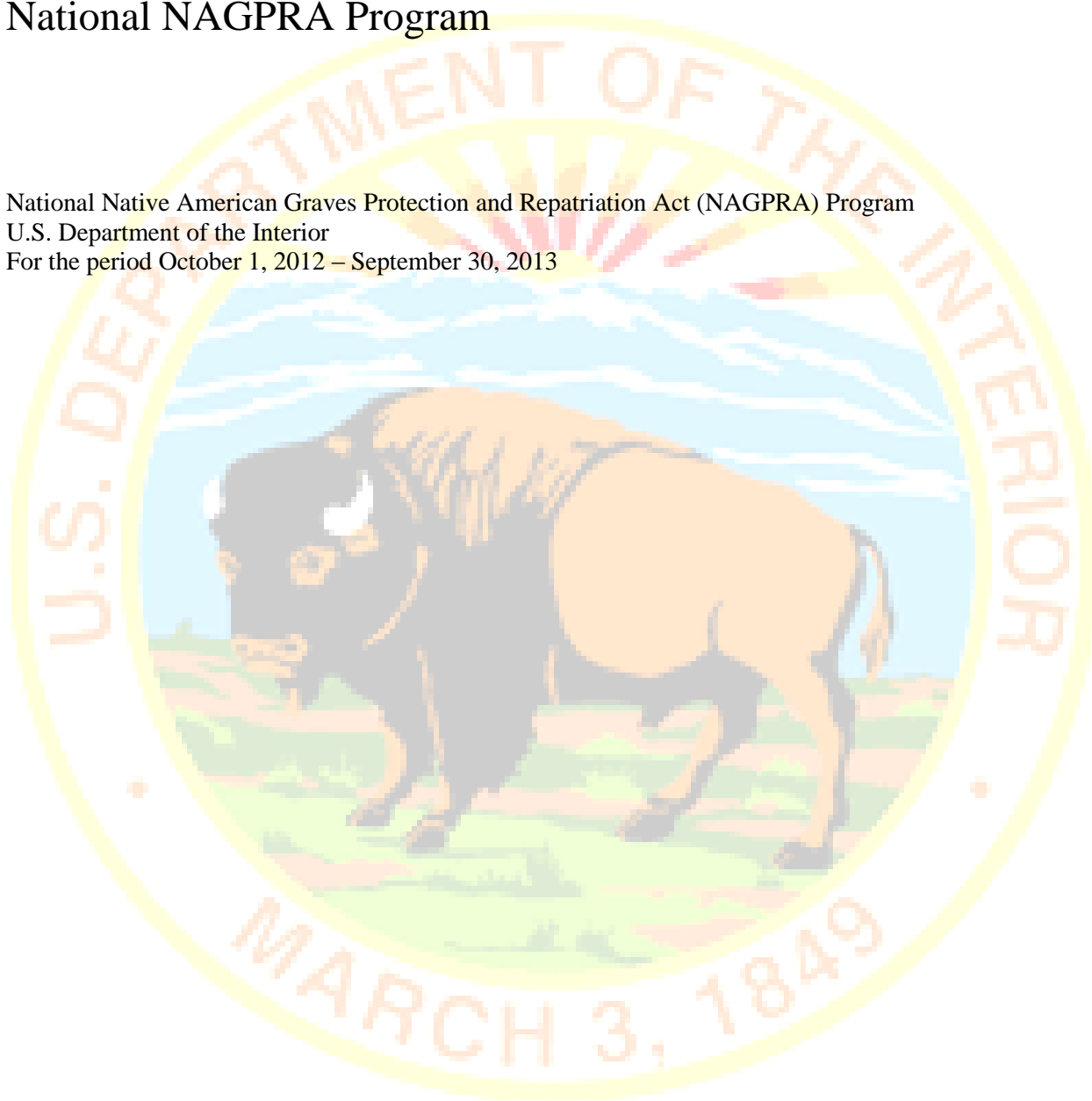


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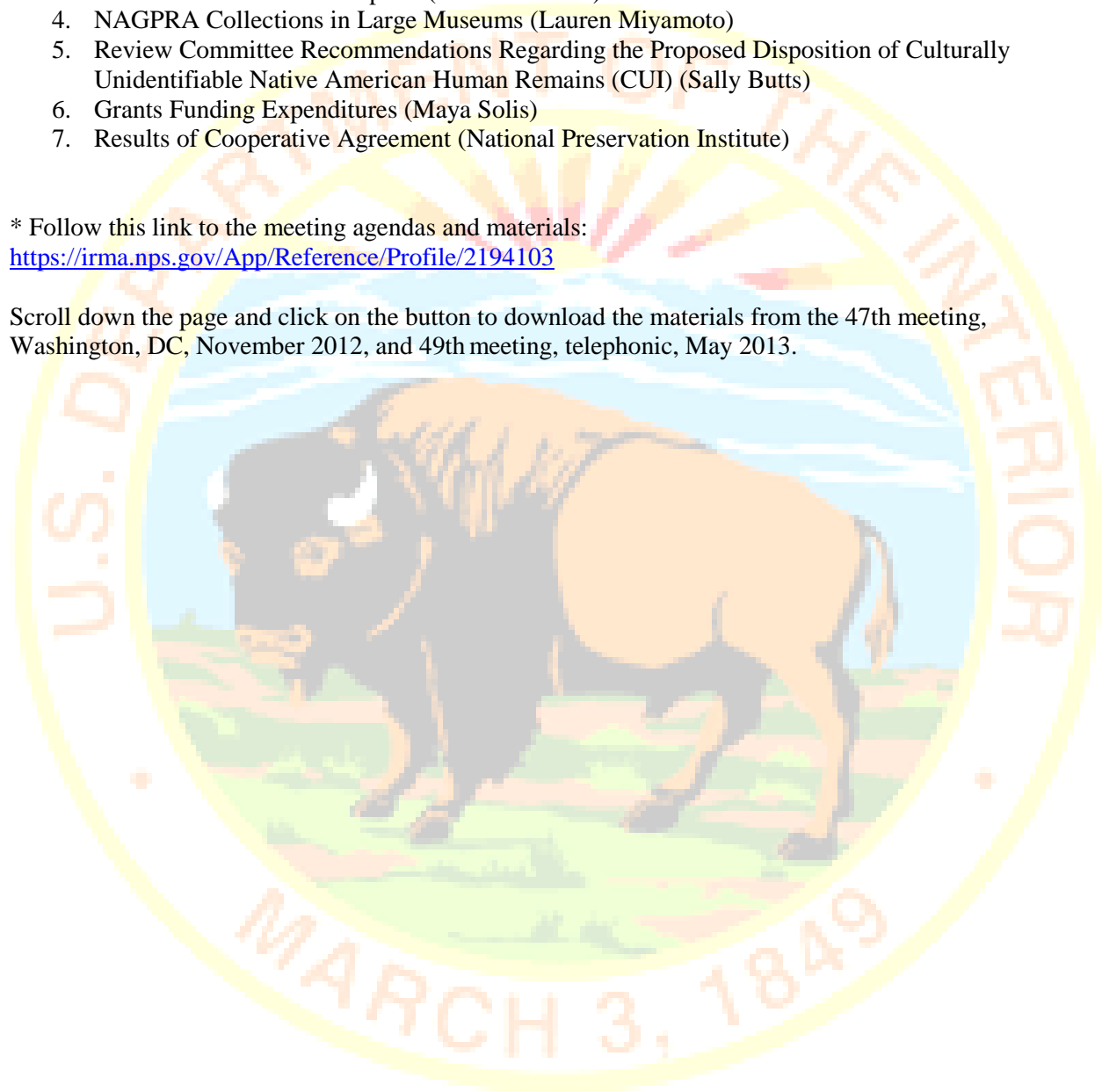
Supplements to the FY 2013 National NAGPRA Program Report* (presented Nov. 2012)

1. Training Evaluations 2005 - 2012 (Museum of Northern Arizona)
2. Mapping the NAGPRA Databases (Alayna Rasile)
3. NAGPRA Grants Final Reports (Kelsea Raether)
4. NAGPRA Collections in Large Museums (Lauren Miyamoto)
5. Review Committee Recommendations Regarding the Proposed Disposition of Culturally Unidentifiable Native American Human Remains (CUI) (Sally Butts)
6. Grants Funding Expenditures (Maya Solis)
7. Results of Cooperative Agreement (National Preservation Institute)

* Follow this link to the meeting agendas and materials:

<https://irma.nps.gov/App/Reference/Profile/2194103>

Scroll down the page and click on the button to download the materials from the 47th meeting, Washington, DC, November 2012, and 49th meeting, telephonic, May 2013.



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Note: acronym in parentheses after the first use of a term in a particular section/page, just the acronym used thereafter within the section/page.

National NAGPRA Program FY 2013 Statistics at a Glance

- o **Summaries received:** 1,125 from institutions and 459 reporting no collection requiring a summary
- o **Inventories received:** 1,319 from institutions and 266 reporting no collection requiring an inventory
 - o **Culturally Unidentifiable Native American Human Remains (CUI):** 753 inventories
 - 121,623 Minimum Number of Individuals (MNI), 909,996 Associated Funerary Objects (AFO)
 - 4,740 MNI transferred as CUI dispositions; 6,331 MNI subsequently culturally affiliated
 - o **Culturally Affiliated Native American Human Remains (CA):** 566 inventories
 - 57,903 MNI, 1,256,200 AFO
- o **Total MNI in NAGPRA: CUI 121,623** (prior CUI, less CUI now CA) and **CA 57,903 = 179,526 MNI**
- o **Notices of Inventory Completion:** Published 112 in FY 2013. Published 1,731 in total:
 - account for 47,742 human remains and 1,136,944 Associated Funerary Objects (AFOs)
 - no requests for extension of time to complete an inventory pending, no requests in FY 2013
- o **Notices of Intent to Repatriate:** Published 42 in FY 2013. Published 644 in total:
 - account for 212,289 Unassociated Funerary Objects (UFOs), 4,816 sacred objects, 7,942 objects of cultural patrimony, 1,613 objects both sacred and patrimony, and 236 undesignated
- o **Notices of Intended Disposition** (Federal Agency newspaper notices of new discoveries)
 - 143 Notices reported for 1,047 minimum number of individuals, 10,964 AFOs, 64 Unassociated Funerary Objects (UFO), and 4 objects of cultural patrimony
- o **Notices using the 10.11 rule:** Published 23 in FY 2013, 101 in total, account for 1,068 human remains, 5,604 AFOs (CUI also in notices using 10.16, prior to 10.11 and when 10.11 does not apply)
- o **Notice processing FY 2013:** 170 received, 154 published; aging drafts (pre-2007) 9 remaining
- o **Grants:** Requested: \$2.7 m (33 projects); Awarded: \$1.6 m – 21 project and \$186,397 – 15 repatriation
- o **Civil Penalties:**
 - Received 7 allegation letters of failure to comply against 8 museums
 - Investigations completed FY 2013: 12 counts (4 museums); Investigations begun but not completed FY 2013: 3 counts (1 museum); Investigations FY 2006-2013: 156 counts (31 museums)
 - FY 2013 (pending adoption by the Assistant Secretary): 7 counts substantiated (58.3% of counts investigated) and 5 counts unsubstantiated (41.7% of counts investigated); FY 2006-2013: 128 counts unsubstantiated and 28 counts substantiated
 - Total of \$42,679.44 collected through civil penalty assessments and settlement agreements
- o **Review Committee:** Meetings: Nov. 28-29, 2012 DC; January 10 & May 22, 2013 telephonic
- o **NAGPRA Regulations 43 CFR 10:**
 - 10.7 Unclaimed – proposed rule under administrative review prior to publication
 - 43 C.F.R. Part 10 minor amendments – Final rule May 9, 2013, effective June 10, 2013
 - 43 C.F.R. Part 10 revised – draft proposed rule under review at the Department of the Interior
- o **Technical Assistance and Reports:**
 - Training provided to 482 participants at 15 events;
 - 2,591 views of the training videos on the National NAGPRA YouTube Channel (264% increase over FY 2012); FY 2012-2013: 3,573 views
 - 2,000 email and telephone requests for technical information
 - 1 special report in progress – Twenty Years of NAGPRA Grants: 1994 – 2013
 - GAO requested Federal Agency Report, see page 48

NAGPRA: Administration of the Law

This report covers activities of the National NAGPRA Program during Fiscal Year 2013 (October 1, 2012 – September 30, 2013). The information reported is current through September 30, 2013. Regular reports are available at: <http://www.nps.gov/nagpra/DOCUMENTS>.

The Native American Graves Protection and Repatriation Act (NAGPRA or the Act) was enacted on November 16, 1990, to address the rights of lineal descendants, Indian tribes, and Native Hawaiian organizations (NHOs) in Native American cultural items, including human remains, funerary objects, sacred objects, and objects of cultural patrimony held in museum or Federal agency collections and discovered on Federal or tribal land after November 16, 1990. The Act assigned implementation responsibilities to the Secretary of the Interior (Secretary). Staff support is provided by the National NAGPRA Program and includes:

- o Publishing notices in the Federal Register for museum and Federal agency collections;
- o Creating and maintaining databases, including the Culturally Unidentifiable Native American Human Remains (CUI) Inventories Database;
- o Administering a grants program, under which the Secretary may award grants to assist museums, Indian tribes, and Native Hawaiian organizations to fulfill the requirements of NAGPRA;
- o Investigating allegations of museum failure to comply with the requirements of NAGPRA to assist the Secretary in the civil enforcement of the Act and its implementing regulations;
- o Providing staff support to the Native American Graves Protection and Repatriation Review Committee (Review Committee) necessary for the deliberations of the Review Committee and for the Review Committee's annual report to Congress;
- o Providing technical assistance concerning the excavation and discovery of cultural items on Federal and tribal lands after November 16, 1990;
- o Receiving, processing, and uploading inventories and summaries prepared by museums and Federal agencies, and processing museum requests to the Secretary for an extension of time to complete an inventory;
- o Promulgating implementing regulations for review by the Department of the Interior (Department); and
- o Providing technical assistance through responses to individual inquiries, training, website information, reports prepared for the Review Committee, and support to law enforcement investigations.

The National Park Service has compliance obligations for the National Park system that are separate from the responsibilities of the National NAGPRA Program. National NAGPRA is an omnibus program whose constituents include all Federal agencies, museums that receive Federal funds, Indian tribes and Native Hawaiian organizations, and the interested public.

Overview of Nationwide NAGPRA Implementation and Issues Impacting Repatriation

The National NAGPRA Program receives input from several NAGPRA constituencies concerning its roles in receiving and processing NAGPRA compliance documents; providing staff support to the Secretary of the Interior to implement the grants, notices, regulations development, Review Committee and civil enforcement functions; and providing training, technical information and outreach products to museums, Indian tribes and NHOs, Federal agencies, and the interested public. Though often anecdotal, this information can contribute toward an understanding of the current status of nationwide compliance with NAGPRA, as well as provide insight into future trends and issues in NAGPRA compliance and repatriation generally. Such information also can assist the Review Committee in assessing the progress made, and any barriers encountered, in implementing NAGPRA. Based on the information it received in FY 2013, the National NAGPRA Program (Program) reflects on:

NAGPRA as It Was and Is

The Native American Graves Protection and Repatriation Act (NAGPRA) was unanimously passed by Congress in 1990, to resolve long-standing issues of rights to human remains and cultural items of Native Americans and Native Hawaiians. As the law set forth a process that is consistent with the rubric of property rights assumed by the dominant society of the country, it should have fallen into place quickly as a compliance activity. However, the law revealed a quantum shift would be necessary in the social ethic, where a lack of enfranchisement and respectful treatment of Native Americans persisted from the time of initial European arrival into the twentieth century.

At the time NAGPRA became law, the Government Accountability Office (GAO) estimated that the human remains of 200,000 Native Americans were in museum and Federal agency collections. Time has proven the estimate to be accurate. Approximately 180,000 individuals are reported in Federal agency and museum collections, with the remainder of the estimate likely at the Smithsonian Institution. Some of these human remains are old, most are historic. Human remains mostly came to the collections through eighteenth and nineteenth century grave looting, twentieth century infrastructure development, and permits issued by the United States for scientific study to benefit the expansion of knowledge as indicated in the Antiquities Act of 1906 and the Archeological Resources Protection Act of 1979 (ARPA). The issuance of permits by the Federal government did not consider the interests of descendants of those buried. Although ARPA regulations reference "Indian owners," none were identified, and property or human remains were not typically restored to tribes using ARPA, except in a few forfeiture actions.

That Antiquities Act or ARPA permits did not gift the excavated items to the permit recipient was a lost concept as human remains and other items remained indefinitely in warehouses and university archaeology laboratories. An ethic developed that collected items belonged to the collector. Supervision of permits by Federal agencies was absent until the late twentieth and early twenty-first centuries.

Tribes were not silent about the conscription of human remains and cultural items. In the 1970s, tribal leaders and a growing number of Native American lawyers brought attention to the macabre practice of museums charging admission to see Indian skeletons. Tribal delegations visited museums attempting to receive ceremonial and personal items that left tribal control without permission. Tribes went to court to pursue rights by applying basic legal concepts of ownership and conversion. None of these efforts were successful in obtaining property rights for tribes or respect for Native American dead and their possessions.

NAGPRA was drafted to be logical and fair. Congress was then faced with the profound change in the ethics of a nation that was required to gain acceptance of the law. Congressional hearings in the late

1990s and early twenty-first century revealed a reluctance to move forward. Arguments were often phrased as a right to science versus human rights.

In 1994, a fully articulated skeleton was found eroded from a cut-bank, in a stream, down-water from a nuclear power station near Kennewick, Washington. Eight individuals brought an action against the Federal landowner to obtain rights to study in the interests of science. They did not request an ARPA permit. Millions of dollars were spent over the next twenty years in litigation, in study by Federal agencies and the plaintiffs, and in housing the skeleton in the Burke Museum at the University of Washington. The court determined that NAGPRA did not apply to the skeleton, quoting the definition in the law that Native American means one who “is” indigenous to the United States. Precise age of the remains was debated by archaeologists, but putting aside the effects of radiation on scientific testing, he is around 9,600 years old. Essentially, the court ruled that the man is too old to be Native American. The ruling made possible a determination that a person “was” indigenous as a matter of fact, but “is” not indigenous today as a matter of law. Conversely, a person who is a Native American today may have descended from ancient people who were not indigenous.

Reflection on NAGPRA compliance as it was and now is provides an opportunity to measure accomplishment. NAGPRA has enabled resolution of rights to Native American human remains and cultural items. The law has prompted an evolution of the national ethic.

The NAGPRA Process

NAGPRA provides a process to deal with sensitive matters in an organized manner. That NAGPRA was codified in Title 25 of the United States Code was an express statement that it is Indian law. As such, the law carries with it the legal precedents which acknowledge that long-standing removal of items from tribes and Native Hawaiians is not a barrier to return.

The NAGPRA process has two tracks. The collections track seeks to rectify past actions that did not include Native Americans, tribes, and Native Hawaiians in decision-making. The track pertaining to new excavations on Federal and tribal lands directs that past omissions will not be repeated.

The collections process begins with a summary of the Native American items in the Federal agency or museum collection. This disclosure is an invitation to the tribes and Native Hawaiian organizations (NHOs), to which it is sent, to consult and make claims for items that are sacred objects, objects of cultural patrimony, and funerary objects not associated with any single individual. The museum does not make decisions on summary items unless and until it receives a claim for an identified NAGPRA protected item from the culturally affiliated, federally recognized, tribe or NHO. Claims to sacred objects may also come from lineal descendants. Museums are not required to transfer items which they are entitled to keep as owners that received permission in the initial transfer from the tribe or individual owner. Decisions to repatriate are published in the Federal Register in Notices of Intent to Repatriate, of which there have been 644 as of the date of this report.

As all human remains and the funerary objects associated with them are treated with respect in the United States, NAGPRA requires Federal agencies and museums to account for Native American human remains and funerary objects differently than items in a summary. Federal agencies and museums have the affirmative obligation to list each individual, whether complete or as fragments indicating an individual, and identify the funerary objects associated with each of them on a NAGPRA inventory. A NAGPRA inventory is a decision document. The Federal agency or museum decides that each listed individual is a Native American and can be shown to have a shared group identity with an Indian tribe or tribes, or is Native Hawaiian, or cannot be identified with a present day tribe. To arrive at these decisions, the Federal agency must consult with possibly connected tribes or NHOs. The decision-maker then publishes a notice in the Federal Register to announce all those enfranchised to receive the human remains and associated

funerary objects. In all, there have been 1,731 published Notices of Inventory Completion, accounting for 47,742 individuals.

The publication of a Federal Register notice is not a mere bureaucratic step. Public notice allows other interested parties to come forward if they have a competing interest. Absent a competing claim or request, thirty days from publication, the decision is final and transfer of ownership/control may occur. Transfer of possession to tribes or NHOs may occur days or months later as logistical arrangements are put into place.

New items and human remains excavated and removed from Federal or Indian lands are not entered into a collection. Instead, the land manager must move expeditiously under NAGPRA to consult with tribes, make a prompt decision on disposition, publish twice in a newspaper, two weeks apart, and then transfer items to the tribe or Native Hawaiian owner. Regulations have been developed by the Program to provide guidance on those unclaimed individuals or items. Publication for public comment on the rule is occurring.

In NAGPRA the determination of a shared group identity, that is the cultural affiliation of human remains and cultural items, is a factual determination made on a case-by-case basis. There must be a reasonable basis for the decision. The initial decision does not presume a need for a quantum of compelling argumentative evidence, or evidence to attain a scientific certainty.

Was and Is

Progress is measured by the numbers on page seven of this report and in the healing that is occurring across the nation as a consequence of consultation between Federal agencies and museums with Native Americans, tribes and Native Hawaiian organizations. Return and reburial of human remains and restoration of cultural items have had a positive effect on recipients. Museums report a new depth of understanding and presentation of collections. Federal agencies report better relations with tribes having a positive impact on the multitude of other Federal/tribal interactions.

The Ninth Circuit court case that was litigated between 1994 and 2004 put a chill on NAGPRA progress that has largely been ameliorated. In 2011, the same Corps of Engineers district in which the court case originated published a NAGPRA notice indicating cultural affiliation to tribes of an individual older than the individual in the case. The difference in circumstances was the association of cultural objects to the older individual. NAGPRA remains a fact-dependent analysis on a case-by-case basis.

At this time it is possible to project priorities and challenges facing NAGPRA constituents as follows:

1. All individuals listed in inventories as culturally affiliated should be in published Notices of Inventory Completion and available for request by listed tribes and NHOs. More than 10,000 individuals await inclusion in a NIC.
2. All individuals listed in inventories as culturally unidentifiable should be evaluated for cultural affiliation, applying a reasonable basis standard and upon consultation with relevant tribes and NHOs. Where appropriate the inventories should be amended and notices published.
3. All remaining individuals in CUI inventories should be in published Notices of Inventory Completion where “must” provisions of 43 CFR 10.11 pertain to human remains from tribal and aboriginal lands of tribes.
4. Summaries sent to NHOs in the 1990s should be sent to all presently identified NHOs.
5. The largest NAGPRA issue facing Federal agencies is to know where collections reside in non-Federal repositories. It is time for Antiquities Act and ARPA permit compliance to require notification to the Federal land managers of items retrieved from Federal and Indian land.

6. All states should recognize that they and their parts are museums in NAGPRA for which statewide compliance is due. Universities dispersing human remains to state agencies should support state NAGPRA efforts with information gained over the period of possession.
7. 48 states have the opportunity to develop NAGPRA protocols that meld Federal and state law for ease of NAGPRA compliance when there are new finds on state, local, and private land that come into state possession and control. Colorado and Iowa stand as models for states.
8. Only about one-fourth of the Native American individuals represented in published Notices of Inventory Completion are reported to have been transferred to Indian tribes and NHOs. The NAGPRA Review Committee should continue to pursue the reasons for barriers to repatriation and to support the work of the Colorado Lands Working Group that seeks places for reburial.
9. The NAGPRA regulations, 43 CFR Part 10, must be republished to clarify areas of perceived ambiguity, clarify the process, and make it linear, with time-lines, in a user-friendly language.
10. NAGPRA grants have been and will continue to be critical to support tribe and museum activities in NAGPRA and to support the costs of repatriation. Challenges exist for those tribes and museums that do not have the capacity to apply for and manage grants due to the absence of funding for NAGPRA positions. (NAGPRA grants fund projects and not ongoing positions).

This list is not fully representative of the challenges facing NAGPRA constituents, but includes those challenges thought to be of critical concern. As NAGPRA compliance continues to resolve matters, a finer set of issues is exposed. The progress made is encouraging and reflective of the NAGPRA ethic as it has permeated cultural property management. A substantial body of work remains for NAGPRA communities and practitioners. It is the goal of the National NAGPRA Program to provide ongoing training and technical support for ease of understanding of the NAGPRA process and the pursuit of successful outcomes.

FY 2013 National NAGPRA Program Accomplishments in Brief

This section of the report details the National NAGPRA Program's activities in FY 2013, and outlines the Program's goals and projects for FY 2014.

Inventories and Summaries

The Program received and processed 78 inventories and 10 summaries in FY 2013. As inventories and summaries are received, they are updated electronically, both internally and on the public databases. In addition, every year the Program and each Federal agency review the documents submitted by the agency during that fiscal year, and the information in those documents is used by the Program to compile the Federal Agency Inventory and Repatriation Data Report. (See page 48)

All of the summaries received by the Program to date were digitized in FY 2012 and most of the inventories in FY 2013. The hard copies of summaries were catalogued for shipment to the National Archives and Records Administration (NARA). The Program will continue to store these records electronically and send the hard copies to NARA on an annual basis. In addition, Indian tribes and NHOs will be consulted on the potential redaction of information contained in the documents that is deemed to be of a sensitive nature, following which the Program will make the redacted documents themselves available on the Program's website via a link from the present database entries. Consequently, in the future, if the originators and recipients of these documents need to replace them, they will be able to do so by accessing the electronic records on the National NAGPRA website or the hard copies stored at NARA.

Notices of Inventory Completion and Notices of Intent to Repatriate

Notice publication is one measure of NAGPRA compliance among museums and Federal agencies, as it reflects the degree to which the museums and Federal agencies are working with Indian tribes and NHOs in determining the transfer of control of Native American human remains and cultural items. Each notice tells the story of historic collection practices, as well as Federal agency and museum consultation with Indian tribes and NHOs to resolve interests in cultural items and human remains. In FY 2013, 154 notices were published in the Federal Register. Altogether, 2,375 notices have been published since 1992. These notices account for 47,742 human remains, 1,136,944 Associated Funerary Objects (AFOs), 212,289 Unassociated Funerary Objects (UFOs), 4,816 sacred objects, 7,942 objects of cultural patrimony, 1,613 objects that are both sacred objects and objects of cultural patrimony, and 236 summary objects whose NAGPRA category or categories were not designated in the notice.

Grants

Consultation/documentation grants play an important role in the NAGPRA compliance process for Indian tribes, NHOs, and museums. Each grant enables a consultation/documentation project to move the process forward, whereas it otherwise might have stalled absent the availability of funds. In FY 2013, as in past years, the Program received letters and comments from non-funded grant requestors expressing disappointment over their inability to move forward on a NAGPRA project. Thankfully, no grant funds have been lost by any grantee as a result of its failure to claim all the awarded funds during the five-year term of the grant, in large part due to active communication between the NAGPRA Program and award recipients. For FY 2013, the Secretary awarded 21 consultation/documentation grants and 15 repatriation grants.

Civil Enforcement

Since FY 2010, there has been no civil penalty investigator. Thanks to the receipt of additional funds, the Program published a request for proposals on a procurement contract addressing civil penalty work. Following receipt of a satisfactory proposal, the National NAGPRA Program was able to obligate these funds for a civil penalty analyst to perform the contract on a part-time basis during FY 2012 and part of FY 2013. In FY 2013, the Program continued to address the absence of a designated civil penalty investigator. Consequently, in FY 2014, the Program intends to advertise a position for a staff member whose responsibilities will include the investigation of alleged museum failure to comply. Meanwhile, in FY 2013, investigation was completed regarding twelve counts of museum failure to comply with NAGPRA alleged against four different institutions. Seven of the counts were determined to be substantiated and five counts were determined to be unsubstantiated.

Review Committee

During FY 2013, the Native American Graves Protection and Repatriation Review Committee held one in-person meeting and two telephonic meetings. Although no disputes were heard, the meeting agendas were packed with substantive reports submitted by Indian tribes, museums, and Federal agencies on the successes and barriers to repatriation. The Review Committee has been working on a detailed revision of its dispute procedures. The Review Committee's annual report to Congress for calendar year 2012 was completed and was delivered to Congress during the first weeks of 2013. Also in FY 2013, Review Committee members attended FACA committee leadership skill-building sessions prior to the in-person meeting. Four committee members were appointed in FY 2013.

Notices of Intended Disposition

The excavation or discovery and removal of Native American human remains and cultural items from Federal and tribal lands after November 16, 1990, are not subject to the collections provisions of NAGPRA. The decisions of the Federal agencies appear in newspaper notices. As more Federal agency decisions are reported to the Program, a fuller picture of Federal agency efforts to comply with the requirements of NAGPRA will emerge.

Training

The National NAGPRA YouTube Channel provides on-demand access to the NAGPRA training video series. In FY 2013, there were almost 2,600 visitors to the YouTube site. Also during FY 2013, the National NAGPRA Program provided training to 482 participants at 15 events, including 7 webinars. Webinars accounted for 46.7% of the training events and 52.7% of the training participants in FY 2013. Materials from webinars are posted on the Program website, making them accessible to anyone who is unable to attend the webinar.

Outreach

Each member of the small National NAGPRA Program team responds to over 500 email and phone requests for technical information on an annual basis. This has been a satisfying experience for all involved, as speaking to a NAGPRA constituent in the midst of the compliance process can lead to better understanding, less frustration, and increased success.

Website

The Program now provides web-accessible databases for Culturally Unidentifiable Native American Human Remains (CUI) inventories, Culturally Affiliated (CA) inventories, summaries, Federal Register notices, Notices of Intended Disposition by Federal Agencies, and the Native American Consultation contact lists, tribal and aboriginal land maps, and other aids to consultation. The Program frequently posts information of importance to NAGPRA constituencies, from warnings of system maintenance action to training announcements, regulation publication and solicitation of comments, and upcoming meetings. The National NAGPRA Program homepage (www.nps.gov/NAGPRA) is one of the most frequently visited sites on the NPS system.

Information Management Systems

Records are continually being added and checked against originator records to refine, update and audit information. Open access to information on these databases has led to increased communication between museums and Federal agencies on collection responsibilities, has led to updates of records for better data quality, and has supported consultation leading to thousands of Native American human remains previously held as Culturally Unidentifiable either being culturally affiliated and in notices or in notices for disposition under the CUI rule at 43 CFR 10.11, which became final in 2010.

The project which began in FY 2012 to digitize inventories submitted by museums and Federal agencies, which will allow better internal record management, is near completion. In the future, some of this information might be posted on the Program's website. Greater transparency on NAGPRA compliance through web-accessible data has allowed museums, Indian tribes, NHOs and Federal agencies to further refine their NAGPRA compliance activity and approach complex issues.

Emphasis has been placed on digitizing compliance documents, entering repatriation numbers, and reconciling inventory and summary hardcopy and electronic records. This is part of an overall records management plan to archive aging records. The next step in the Program's information management will be to encourage the electronic submission of documents and provide access to all compliance records through the Program's website.

Technology development

A contract was awarded to NuAxis to secure the internal database and begin converting files for migration to a Structured Query Language (SQL) database. This will enable the Program to avail itself of low-cost housing of electronic files.

Regulations

As of September 30, 2013, a draft proposed regulation (to be codified at 43 C.F.R. 10.7) to address the disposition of Native American human remains, funerary objects, sacred objects, and objects of cultural patrimony removed from Federal lands after November 16, 1990, and not claimed under Section 3 (a) of NAGPRA was still under review. Once it is released for publication, a lengthy comment period on the proposed rule will begin. The comments received will inform a final rule.

Proposed minor amendments to revise the NAGPRA regulations at 43 C.F.R. Part 10 for purposes of factual accuracy and consistency were published in the Federal Register on April 18, 2012. A public comment period ended on June 18, 2012. The final rule was published on May 9, 2013, and became effective on June 10, 2013.

In FY 2012, the National NAGPRA Program and the Department of the Interior's Office of the Solicitor undertook the first-ever retrospective review of the NAGPRA regulations at 43 C.F.R. Part 10 since their initial promulgation in 1995. The purpose of this review was to determine whether substantive revision of the regulations is warranted and, if so, how the rules should be revised. Before doing so, the National NAGPRA Program and the Office of the Solicitor conducted listening sessions to give lineal descendants, Indian tribes, Native Hawaiian organizations, Federal agencies, museums, national museum and scientific organizations, Indian tribal historic preservation organizations, the Native American Graves Protection and Repatriation Review Committee, and interested members of the public an opportunity to address these questions. Also, the National NAGPRA Program solicited and received further, written input on these questions from the above constituencies. In addition, the National NAGPRA Program received input on these questions from Native Hawaiian organizations and Native Hawaiian individuals through the Department of the Interior's Office of Hawaiian Relations (OHR). Furthermore, the National NAGPRA Program considered the comments to the proposed minor amendments (see above) that went beyond the scope of the proposed minor amendments, as well as the comments received by the Department during the 60-day comment period on the 2010 final rule relating to the disposition of culturally unidentifiable human remains. In FY 2013, the National NAGPRA Program completed a draft proposed revision of 43 C.F.R. Part 10 for review by the Department.

Goals in FY 2014 for the National NAGPRA Program

The Program's goals in FY 2014 are as follows:

- Digitization Project:
 1. Complete scanning inventories.
 2. Continue to index files, insert metadata, and upload scanned compliance documents to the NPS Integrated Resource Management Application (IRMA) for archival and retrieval purposes.
 3. Review compliance documents for digital image quality and contact institutions responsible for clean, electronic version where necessary.
 4. Begin consultation with Indian tribes and NHOs regarding the potential redaction of sensitive material in documents to be made public.
- Archive Project: Complete the archiving of all files, from the inception of the Program through FY 2013, and transfer the files to the National Archives and Records Administration (NARA). Archive electronic correspondence and digitize paper correspondence.
- Review Committee: Complete outstanding research reports requested by the Review Committee, hold one in-person and two electronic meetings, maintain the practice of six-month advance notice of meetings and advance notice of committee member openings to solicit nominations, post meeting materials for the public a month in advance of meetings and deliver the Review Committee Report to Congress for 2013 early in January 2014.
- Civil Enforcement: Obtain a full-time civil enforcement investigator to begin reducing the backlog of allegations.
- Notices: Maintain the pace of notice publication and, if possible, eliminate the minor backlog, maintain NAGPRA notices on the standards of the Federal Register, and continue prompt notice of notice publication to originators.
- Grants: Post the FY 2014 Grants guidelines on the Program website at the beginning of the grant year, continue outreach and education to potential grantees and support existing grantees, move National NAGPRA into the grants.gov system, and hold the FY 2014 grants panel in May 2014 for awards in June. Publish the report on twenty years of NAGPRA grants, 1994 – 2013.
- Training: Offer six or more webinars and live training on popular and new topics, in addition to training for the Review Committee and public prior to Review Committee meetings.
- Regulations: Publish the proposed rule for the disposition of unclaimed cultural items removed from Federal lands after November 16, 1990 (to be codified at 43 CFR 10.7), and prepare a final rule for Departmental review. Move 43 CFR Part 10 to Departmental review for publication as a proposed new set of regulations.
- Work with the Advisory Council on Historic Preservation (ACHP) to reach consensus on the intersection of Section 106 of the National Historic Preservation Act and NAGPRA, and create a single training document to assist all practitioners.
- Promote efficient and trouble-free NAGPRA compliance through technical information, training, and informational products.

Collections

Inventories, Summaries, Notices, Culturally Unidentifiable Human Remains (CUI), Repatriation, Grants, Civil Enforcement, and the Review Committee comprise the sections of NAGPRA relating to collections.

Inventories

NAGPRA requires each Federal agency and institution that receives Federal funds to complete an inventory of its collection of Native American human remains and associated funerary objects (AFOs) in consultation with potentially affiliated Indian tribes and NHOs. Accordingly, two itemized lists, constituting the decision of the Federal agency or museum concerning the affiliation of the human remains and associated funerary objects in its collection, are submitted to the Program. One list is completed for those individuals whose cultural affiliation can be determined (CA) and one list is completed for those individuals whose cultural affiliation cannot be reasonably determined (CUI). An inventory identifies the minimum number of individuals (MNI) represented in a collection. Affiliated human remains and associated funerary objects in an inventory are then usually grouped by Indian tribe or NHO affiliation and published in the Federal Register in one or more Notices of Inventory Completion (NIC). The publication of the notice establishes the right of an Indian tribe or NHO listed in the notice to receive control of the human remains and associated funerary objects. As publication of a NIC does not require a claim or request for transfer of control, a NIC does not presuppose which of the listed affiliated Indian tribes or NHOs will ultimately request and receive control of the human remains and associated funerary objects. The NIC is inclusive of all those enfranchised to receive, acting on the notice.

As of September 30, 2013, the Program had received inventories from a total of 1,138 entities (756 non-Federal institutions and 382 Federal agency units) and 266 statements of “no inventory required”. Of the 1,319 inventories received, 566 contain decisions as to cultural affiliation of Native American human remains, and 753 contain listings of Culturally Unidentifiable Native American human remains. *Note: There may be duplication of reporting for collections as the law directs those museums with possession or control of collections to submit an inventory and several museums may have collections belonging to Federal agencies, where both the museum and Federal agency submitted an inventory. Although duplicate inventories can exist, the Program resolves the number of MNI, so as not to double count in overall reporting.*

The decisions reflected in the inventories are those of the museum or Federal agency and not the Program. The Program facilitates the publication of notices, but does not audit the collections of the reporting museum or Federal agency unit. The Program’s review of a draft notice entails matching the inventory records to the submitted notice. All MNI and AFOs described in the notice must be represented in the inventory. In other words, notices are a reflection of part, or all, of what the museum or Federal agency has in its collections that are reported in their inventory. The Program’s database of inventory records includes a link to published notices. Thus, a museum or Federal agency can see both those MNI already in notices as well as those MNI that await listing in a notice as they are listed in an inventory.

Museums and Federal agencies are under a continuing duty to report new collections and changes to their prior determinations. Also, the future applicability rule, codified at 43 C.F.R. 10.13, applies whenever cultural items are newly found in a collection, a new collection of cultural items comes under the control of the museum or Federal agency, cultural items in a collection are affiliated with a newly recognized Indian tribe, or an institution that controls cultural items receives Federal funding for the first time since November 16, 1990.

TABLE 1.—Minimum Number of Individuals (MNI) – Both Culturally Affiliated (CA) and Culturally Unidentifiable (CUI) – Repatriated to Indian Tribes and Native Hawaiian Organizations (NHOs) in FY 2013.

INSTITUTION	MNI Total	CUI	CA	Repatriated
Federal	33,132	14,252	18,880	11,272
Museum	146,394	107,371	39,023	2,672
TOTAL	179,526	121,623	57,903	13,944

TABLE 2.—MNI and Associated Funerary Objects (AFOs) Repatriated to Indian Tribes and NHOs in FY 2013.

INSTITUTION	MNI Total	MNI Repatriated	AFOs	AFOs Repatriated
Federal	33,132	11,272	303,598	152,337
Museum	146,394	2,672	1,772,598	33,976
TOTAL	179,526	13,944	2,076,196	186,313

TABLE 3.—MNI Adjusted in FY 2013, Repatriated, and Remaining in Collections.

INSTITUTION	FY 2012	Adjusted FY 2013	MNI Total	MNI Repatriated	Remaining
Federal	33,700	-568	33,132	11,272	21,860
Museum	140,080	6,314	146,394	2,672	143,722
TOTAL	173,780	5,746	179,526	13,944	166,582

The above three tables report the status of Native American human remains in museum and Federal collections. The data are presented variously to account for: 1) MNI repatriations with collections divided into CUI and CA; 2) Repatriations of MNI showing the number of AFOs also repatriated; and 3) totals from FY 2012, with MNI adjusted in FY 2013, for those remaining after repatriation. The end number from one year would be the starting number in the next year, but for the addition of MNI added to collections over the course of any given year. The audited and adjusted numbers are displayed in Table 3.

Summaries

Summaries of the Native American collections in the possession or control of Federal agencies and museums generally describe potential Native American unassociated funerary objects (UFOs), sacred objects, and objects of cultural patrimony. The purpose of the summary is to inform museum and Federal agency consultation with Indian tribes and NHOs on the collection. In completing the summary, the Federal agency or museum is not expected to know if an object is a cultural item under NAGPRA. Cultural affiliation is not determined in the summary. Those decisions occur upon consultation with interested Indian tribes or NHOs, after an Indian tribe or NHO has made a request for repatriation of the object as a cultural item under NAGPRA, and the request for repatriation has satisfied the criteria for such requests. The decision to repatriate a UFO, sacred object, or object of cultural patrimony is reflected in a published Notice of Intent to Repatriate (NIR) cultural items. Consequently, publication of a NIR precedes transfer of control of a cultural item.

To date, National NAGPRA has received 1,125 summaries and 459 Statements of “no summary required” have been received.

Museums and Federal agencies are under a continuing obligation to comply with NAGPRA. Museums and Federal agencies receiving a new collection, or having collections of new Indian tribes, are to prepare or update inventories within 2 years and summaries within 6 months. If an institution receives Federal funds for the first time since November 16, 1990, its summary is due within 3 years of receipt of the Federal funds and its inventory is due within 5 years of receipt of the funds.

For more information on inventories and summaries, contact Mariah Soriano (Mariah_Soriano@nps.gov).

Notices

Publication of Notices of Inventory Completion and Notices of Intent to Repatriate is a barometer of NAGPRA activity, as it is the culmination of work among museums, Federal agencies, Indian tribes and NHOs that, ultimately, has led to decisions on the transfer of control of Native American human remains and cultural items. Museums and Federal agencies, in consultation with Indian tribes and NHOs, continue to be very active in NAGPRA compliance, having had 154 notices published in FY 2013.

There has been an increased efficiency in processing notices, from receipt to publication. At the beginning of FY 2005, 195 draft notices were still being processed, 127 of which had been pending publication for over 5 years. At the end of FY 2011, 80 draft notices were still being processed, only 19 of which had been pending publication for 5 or more years. At the end of FY 2012, 40 draft notices were still being processed, only 16 of which had been pending publication for 5 or more years. At the end of FY 2013, 46 draft notices were still being processed, 20 of which were in the final stages of publication, and only 9 of which had been pending publication for 5 or more years. In addition to 154 published notices, 20 more will be submitted for publication in early October 2013.

For more information on notices, contact Melanie O’Brien (Melanie_O’Brien@nps.gov).

The table below reflects the status of submissions during this period:

TABLE 4.—Notice Processing FY 2013.

Year 2013	Beginning	Received	Removed by Originator*	Published	In Processing end of FY 2013
NIC	36	127	8	112	43
NIR	4	43	2	42	3
Total:	40	170	10	154	46

* Notice originators (museums or Federal agencies) may remove a notice from publication due to error in submission or in order to revise it at a later time pending further consultation with Indian tribes and NHOs. The decision to remove a draft notice from processing prior to publication rests with the originator.

Notices of Inventory Completion (NIC)

Since 1992, the National NAGPRA Program has published 1,731 Notices of Inventory Completion in the Federal Register, accounting for 47,742 human remains and 1,136,944 Associated Funerary Objects (AFOs). In FY 2013, a total of 112 Notices of Inventory Completion were published, accounting for 1,251 human remains and 14,201 AFOs.

Notices of Intent to Repatriate (NIR)

Since 1993, the National NAGPRA Program has published 644 Notices of Intent to Repatriate in the Federal Register, accounting for 212,289 Unassociated Funerary Objects (UFOs), 4,816 sacred objects, 7,942 objects of cultural patrimony, 1,613 objects that are both sacred objects and objects of cultural patrimony, and 236 undesignated cultural items. In FY 2013, a total of 42 Notices of Intent to Repatriate were published, accounting for 1,226 UFOs, 57 sacred objects, 207 objects of cultural patrimony, and 185 objects that are both sacred objects and objects of cultural patrimony.

TABLE 5.—Table of Notices Published FY 1992 through FY 2013.

Year	Notices Published	MNI ¹	AFOS ²	UFOs ³	SO ⁴	OCP ⁵	SO& OCP	CI ⁶
1992	2	15	12,225	0	0	0	0	0
1993	14	40	60,071	0	1	0	7	0
1994	13	1,851	269	31,681	1	1	1	0
1995	36	806	18,710	6	243	3	4	0
1996	59	2,282	115,993	32	91	17	10	0
1997	122	1,311	50,834	5,061	116	67	92	0
1998	82	5,305	31,191	2,484	14	62	165	0
1999	108	6,437	31,263	680	106	70	78	0
2000	110	2,030	21,982	3,245	552	11	28	0
2001	199	2,963	168,932	25,583	6	25	5	0
2002	143	3,139	19,792	5,903	110	3	121	0
2003	85	662	31,419	1,195	101	4	135	0
2004	103	1,525	13,851	14,294	37	9	13	0
2005	108	2,355	60,418	1,997	2,183	3	5	0
2006	100	1,373	36,045	10,303	9	6	45	0
2007	108	687	22,043	27,036	28	22	120	159
2008	180	3,790	86,761	7,962	173	78	33	0
2009	200	2,247	227,865	6,712	532	567	16	77
2010	152	1,635	8,760	2,466	11	10	388	0
2011	109	2,086	13,448	2,757	18	6	44	0
2012	188	3,952	90,871	61,666	427	6,771	118	0
2013	154	1,251	14,201	1,226	57	207	185	0
TOTAL	2,375	47,742	1,136,944	212,289	4,816	7,942	1,613	236

¹ = MNI (Minimum Number of Individuals)² = AFOS (Associated Funerary Objects)³ = UFOs (Unassociated Funerary Objects)⁴ = SA (Sacred Objects)⁵ = OCP (Object of Cultural Patrimony)⁶ = non-designated cultural item

Repatriation and Culturally Unidentifiable Native American Human Remains (CUI)

In 2010, a report on NAGPRA by the Government Accountability Office of Congress (GAO) posed a question as to the Minimum Number of Individuals (MNI) repatriated to Indian tribes and Native Hawaiian Organizations under NAGPRA. The Secretary of the Interior, who has responsibilities for administering the Act, requested that Federal agencies comply with the GAO request on an annual basis, by reporting their statistics to the National NAGPRA Program. Reporting is voluntary for museums, although keeping repatriation records is part of the regulatory process for museums. The reported repatriations are reflected in Table 6. *Note: The broad picture of Federal agency NAGPRA progress is reflected in Table 14, Federal Agency Inventory and Repatriation Data Report FY 2013.*

The following table indicates the number of culturally affiliated and culturally unidentifiable Native American individuals repatriated to Indian tribes and NHOs. For purposes of administering the Act, the transfer of control of Native American human remains and cultural items is “repatriation,” regardless of whether the individuals whose human remains are in a notice are culturally affiliated or culturally unidentifiable. The table gives the total MNI transferred from Federal agencies and museums (which includes universities), although museum reporting is voluntary.

TABLE 6.—Repatriation Statistics FY 2013.

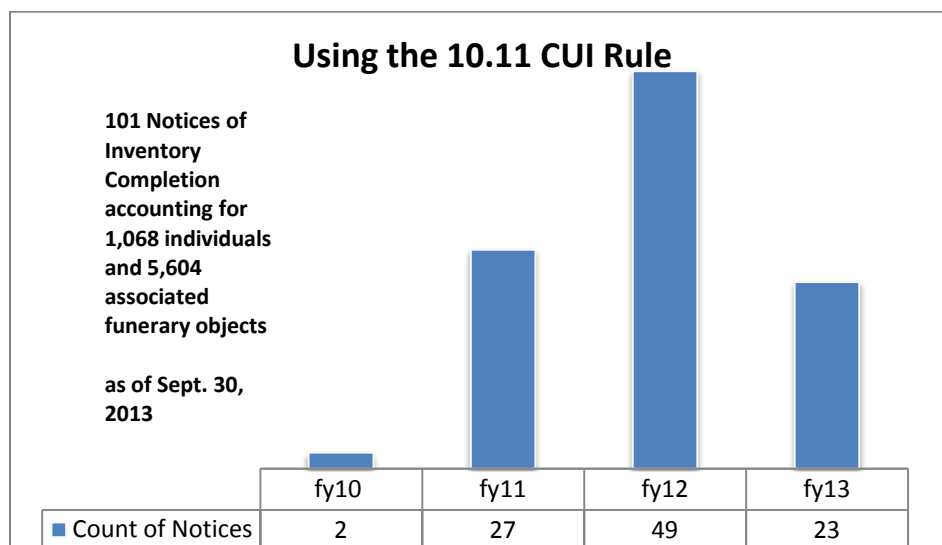
INSTITUTION	MNI Total	MNI Notices	AFOs Notices	MNI Repatriated	AFOs Repatriated
Museums	146,394	27,812	901,080	2,672	33,976
Federal Agencies	33,132	17,438	220,307	11,272	152,337
TOTAL	179,526	45,250	1,121,387	13,944	186,313

Note: As the National NAGPRA Program updates databases in consultation with the submitting Federal agency or museum, it will be possible to include data on the size of the collections and the disposition of the collection relative to the whole. A template to accomplish additional detail in reporting is a work in progress with input from the NAGPRA Review Committee.

The rule concerning the disposition of Culturally Unidentifiable (CUI) Native American human remains in inventories became final in March 2010, and is codified at 43 CFR 10.11. During FY 2013, 23 NICs under the CUI rule were published. Figure 1 (below) indicates that, to date, 101 Notices of Inventory Completion have been published, accounting for, at minimum, 1,068 individuals (MNI) and 5,604 associated funerary objects (AFOs).

Prior to the effective date of 43 CFR 10.11, a museum or Federal agency wishing to transfer CUI to one or more Indian tribes or NHOs could not do so unless the parties had an agreement, the Review Committee recommended to the Secretary that the proposed transfer proceed, and the Secretary concurred with the Review Committee’s recommendation. The pre-regulation recommendations of the Review Committee are compiled in the supplemental report, *NAGPRA Review Committee Actions, 25 USC 3006(c)(5); Culturally Unidentifiable Native American Human Remains*, by Sally Butts.

FIGURE 1.—Notices Using 43 CFR 10.11, the Disposition of Culturally Unidentifiable Native American Human Remains.



Grants

Requests

A total of \$1.650 million was available for grants in FY 2013. The grant application deadline for consultation/documentation grants was March 4, 2013. Repatriation grant applications are received on a rolling basis. Altogether, 48 grant applications were received in FY 2013: 33 consultation/documentation proposals and 15 repatriation funding requests. The total amount of funds requested in FY 2013 was \$2.7 million.

Grant applications for consultation/documentation projects are reviewed by an outside panel. The FY 2013 panel met on May 9-10. Since FY 2011, the review process has been automated; applications are reviewed electronically. In addition to eliminating the need to transport large numbers of documents, a database allows reviewers to enter and edit their comments on the application electronically.

Each application was reviewed and ranked by the independent panel. Applicants received an individualized letter from the Program along with feedback obtained from the panel, to assist them in preparing better grant proposals in the future and in administering successful projects.

TABLE 7.—Consultation/Documentation Grants Awarded in FY 2013.

FY 2013 NAGPRA Consultation Grant Recipients	
\$81,764.00	Central Council, Tlingit and Haida Indian Tribes of Alaska
\$90,000.00	Hydaburg Cooperative Association
\$78,018.50	Catalina Island Museum
\$90,000.00	Ione Band of Miwok Indians
\$43,573.00	North Fork Rancheria of Mono Indians of California
\$87,289.00	San Francisco State University
\$53,669.00	Sherwood Valley Rancheria
\$90,000.00	Smith River Rancheria
\$90,000.00	Susanville Indian Rancheria
\$89,919.00	University of Denver Museum of Anthropology
\$81,622.00	Field Museum of Natural History
\$20,122.00	The Evanston History Center
\$52,019.00	Ball State University
\$89,258.00	Louisiana State University and A&M College
\$57,339.00	Saginaw Chippewa Indian Tribe of Michigan (Ziibwing Center)
\$73,018.00	Rochester Museum and Science Center
\$74,769.00	Caddo Nation of Oklahoma
\$36,887.00	Confederated Tribes of Umatilla Indian Reservation
\$66,741.00	Confederated Tribes of Warm Springs
\$89,955.21	Washington State Parks and Recreation Commission
\$30,675.00	State of West Virginia Division of Culture and History
\$1,466,637.71	Subtotal – consultation grants

TABLE 8.—Repatriation Grants Awarded in FY 2013.

FY 2013 NAGPRA Repatriation Grant Recipients	
\$31,514.00	Robinson Rancheria Band of Pomo Indians, California
\$6,837.00	Santa Rosa Indian Community of the Santa Rosa Rancheria, California
\$14,470.00	Table Mountain Rancheria of California
\$3,520.00	University of Denver Museum of Anthropology
\$11,328.00	Seminole Tribe of Florida
\$3,050.00	Muscogee (Creek) Nation
\$15,000.00	Pueblo of Santa Ana, New Mexico
\$12,154.00	Confederated Tribes of the Umatilla Reservation
\$11,700.00	Gila River Indian Community
\$14,954.00	The Field Museum of Natural History
\$7,753.00	The Chickasaw Nation
\$15,000.00	The Confederated Tribes of the Warm Springs Reservation of Oregon
\$14,989.00	The University of Washington Burke Museum
\$162,269.00	Subtotal – repatriation grants
\$1,628,906.71	TOTAL FOR ALL GRANTS

TABLE 9.—Grants Requested and Awarded FY 1994 – FY 2012.

TRIBES				MUSEUMS			
Year	Number of Applications Received	Amount Requested \$	Amount Awarded \$	Year	Number of Applications Received	Amount Requested \$	Amount Awarded \$
1994	106	6,091,594	1,023,200	1994	113	6,643,200	1,116,800
1995	63	3,842,289	1,387,925	1995	56	2,408,165	854,075
1996	54	3,490,414	1,150,985	1996	33	1,530,039	946,905
1997	54	3,148,112	1,425,600	1997	20	1,055,915	550,650
1998	61	3,547,254	1,557,165	1998	23	1,025,061	775,720
1999	57	3,296,264	1,648,220	1999	22	2,251,415	687,780
2000	84	4,814,432	1,629,170	2000	27	1,276,774	622,830
2001	53	3,048,377	1,802,180	2001	20	1,042,261	635,820
2002	57	3,460,873	1,708,268	2002	16	961,775	537,552
2003	60	3,708,782	1,703,194	2003	12	668,730	497,806
2004	41	2,369,685	1,535,659	2004	17	1,037,649	646,341
2005	41	2,344,891	918,560	2005	17	1,060,299	471,669
2006	52	2,999,228	1,500,965	2006	17	825,172	393,893
2007	36	2,100,960	1,247,243	2007	16	815,239	548,825
2008	29	1,691,220	1,089,554	2008	12	559,317	490,258
2009	51	2,674,813	753,809	2009	31	1,809,161	1,092,787
2010	37	1,959,886	938,721	2010	20	1,227,296	811,328
2011	36	1,710,093	897,774	2011	23	1,306,530	848,226
2012	28	1,472,720	736,043	2012	21	1,216,161	1,010,213

Applicants who had participated in NAGPRA grants training or took advantage of a pre-review of their grant request were highly represented among FY 2013 grantees.

Applicants who contact the Program early in the year, take advantage of trainings, and submit a grant application for pre-review have a good chance of receiving a NAGPRA grant. Therefore, continued outreach by the Program on a year-round basis is important.

Grants Management

The Grants Coordinator position was vacant from FY 2012 through FY 2013. The Program staff continued to work with Vedet Coleman, Grants Management Specialist, servicing continuing grants for grantee compliance. All FY 2008 grants and most all FY 2009 grants were closed out by the end of FY 2013 with minimal or no unused funds returned to the Treasury Department.

At the end of FY 2013 a new Grants Coordinator joined the National NAGPRA team. Thomas Cullerton joined National NAGPRA at the end of September 2013. He comes to Washington from a back country ranger position in NPS in the northwest at the Canadian border, having previously worked with NPS on the National Mall, worked with tribes, and having advanced degrees in American history. His work with tribes in the Dakotas, his prior government and cultural resources experiences, and his prior work experience in marketing and grants all make him a wonderful candidate to work with our NAGPRA grantees and grant applicants.

Thomas is creating the complete electronic NAGPRA grants filing system and populating the data for years FY 2010 through FY 2013. He is working with Mariah Soriano on the internal software system developed for grants management. As the system is populated, it will enable the Program to track the progress of all grantees to assist in issue spotting before issues become problems.

In FY 2013, two webinars were presented on NAGPRA Grants. The annual Grants Management training, which covers administrative and programmatic reporting, including reporting requirements and procedures for requesting a modification to the grant, was held in January 2013, in which grants finance experts Vedet Coleman and Hampton Tucker presented. The new Interior finance, accounting, and payment system was explained to the grantees. Also in January 2013, the National NAGPRA Program presented “Applying for a NAGPRA Grant.” The members of the NAGPRA Grants Panel all graciously agreed to present the program, giving valuable insight to prospective grant applicants.

At the end of the FY 2013 grants cycle there was \$20,000 remaining in the NAGPRA grants account, not requested by repatriation grants. All repatriation grants requested and all consultation/documentation grant projects recommended for funding by the panel in FY 2013 were funded. The remaining funds were applied to a contract with Contract Solutions of Arlington, VA. The project in the contract is the updating of the document “Journeys to Repatriation 1994 – 2007.” The new document will feature a report on twenty years of NAGPRA grants, 1994 – 2013, using all available information. The report should be ready for release in FY 2014.

For more information on grants, contact: NAGPRA_grants@nps.gov and Thomas_Cullerton@nps.gov

Civil Enforcement

Under NAGPRA, civil penalties may be imposed upon museums that have failed to comply with the requirements of the law. For more information on civil penalties, contact David Tarler, Enforcement Coordinator, National NAGPRA Program (David_Tarler@nps.gov).

The civil penalties rule (43 C.F.R. 10.12) was published as an interim rule in 1997 and as a final rule in 2003. Civil enforcement began in 2006. The NAGPRA regulations set forth nine ways that a museum might fail to comply with the Act or its regulations (43 C.F.R. 10.12 (b)(1)):

- i. Sale or transfer of NAGPRA items contrary to NAGPRA.
- ii. Failure to complete a summary.
- iii. Failure to complete an inventory.
- iv. Failure to notify tribes within 6 months after completion of the inventory.
- v. Refusal to repatriate.
- vi. Repatriation prior to publishing a notice in the Federal Register.
- vii. Failure to consult with tribes and/or lineal descendants.
- viii. Failure to inform recipients that items have been treated with pesticides.
- ix. Failure to offer to transfer control of Culturally Unidentifiable (CUI) human remains upon receipt of a claim by an appropriate “tribal land” tribe or “aboriginal land” tribe.

In May 2005, through a Secretarial Order, the Secretary of the Interior gave the National NAGPRA Program the responsibility of providing staff support on civil penalties to the Secretary’s designee, the Assistant Secretary for Fish and Wildlife and Parks. From the beginning of FY 2006 through FY 2010, the NAGPRA civil penalty coordinator, who serves in the National NAGPRA Program, and a National Park Service law enforcement officer worked as a team to support the Assistant Secretary. During that time, the civil penalties investigative function was housed within the National Park Service’s Law Enforcement, Security and Emergency Services (LESES) branch. Civil penalty investigations were carried out by NPS law enforcement officer Bob Palmer. In FY 2010, LESES could not accommodate the National NAGPRA Program’s civil penalty investigative needs. Consequently, since FY 2010, there has not been a designated civil penalty investigator.

Toward the end of FY 2011, thanks to the receipt of additional funds from NPS, the Program published a request for proposals on a procurement contract addressing civil penalty work. Following receipt of a satisfactory proposal from Shannon Keller O’Loughlin, Esq., the National NAGPRA Program was able to obligate these funds for her to perform certain tasks on a part-time basis during FY 2012 and October 1, 2012-March 30, 2013.

Ms. Keller O’Loughlin’s scope of work has been to digest the information in written allegations of museum failure to comply with the requirements of NAGPRA, establish the facts needed to determine whether or not a particular allegation is substantiated or unsubstantiated, and determine, based on the facts provided in the written allegation, whether on its face, a recommendation to the Assistant Secretary can be made or whether follow-up investigation is needed.

The National NAGPRA Program has continued to address the absence of a designated civil penalty investigator. In FY 2014, the National NAGPRA Program intends to advertise for a staff member whose responsibilities will include the investigation of alleged museum failure to comply.

Allegations of Failure to Comply: A Snapshot

Through FY 2013, 105 separate letters alleging museum failure to comply with the requirements of NAGPRA have been received. Most of these allegation letters allege multiple counts of failure to comply against a single institution, and many of the letters name more than one institution in the same letter. The number of written allegations, by year, is as follows (Table 10):

TABLE 10.—Total Number of Written Allegation Letters Received (by Year).

Year	Total # of Allegation Letters
1996	1
1997	5
1998	3
1999	1
2000	2
2001	2
2002	5
2003	4
2004	4
2005	8
2006	3
2007	7
2008	6
2009	5
2010	13
2011	13
2012	16
2013	7
<hr/>	
Total	105

FY 2013: Investigations and Findings

During FY 2013, investigation was completed regarding twelve (12) counts of failure to comply alleged against four (4) different museums. Of the completed investigations, seven (7) of the alleged counts (or 58.3% of the counts alleged) were determined to be substantiated and five (5) of the alleged counts (or 41.7% of the counts alleged) were determined to be unsubstantiated. Also during FY 2013, investigation had begun, but had not been completed, regarding three (3) counts of failure to comply alleged against one (1) museum.

New Allegations Received in FY 2013

During FY 2013, seven (7) individual letters were received, alleging that eight (8) different museums had failed to comply (Table 11). By the end of the fiscal year, investigation was completed regarding six (6) counts of failure to comply alleged against one (1) museum. Also, investigation had begun, but had not been completed, regarding three (3) counts of failure to comply alleged against one (1) museum.

TABLE 11.—Disposition of Allegations of Failure to Comply, Based on the Number of Museums in Allegations (FY 2013 and Total).

	# Museums Represented in Allegations	# Museums in Allegations Investigated	# Museums in Allegations Investigated With One or More Substantiated Counts	# Museums in Allegations Investigated Without a Single Count Substantiated	# Museums in Allegations Remaining to Be Investigated
FY 2013	8	1	3	1	7
Total 1996-2013	83	31	17	14	52

FY 2006-2013: Investigations and Findings

Through FY 2013, the completed investigation of one hundred and fifty-six (156) counts of alleged museum failure to comply, made against thirty-one (31) different museums, has yielded a determination of failure to comply regarding twenty-eight (28) of those alleged counts, involving seventeen (17) museums, and a determination that the allegation was unsubstantiated on one hundred and twenty-eight (128) counts. Thus, through FY 2013, the percentage of investigated museums that were determined to have failed to comply with the requirements of NAGPRA on at least one count is 54.8%, whereas the percentage of alleged counts that were investigated and determined to be substantiated is only 17.9%.

The twenty-eight (28) substantiated counts of failure to comply were comprised of one count of sale or transfer of NAGPRA cultural items contrary to NAGPRA (43 C.F.R. 10.12 (b)(1)(i)); three counts of failure to complete a summary (43 C.F.R. 10.12 (b)(1)(ii)); twelve counts of failure to complete an inventory (43 C.F.R. 10.12 (b)(1)(iii)); six counts of refusal to repatriate (43 C.F.R. 10.12 (b)(1)(v)); and six counts of failure to consult with Indian tribes and Native Hawaiian organizations (43 C.F.R. 10.12 (b)(1)(vii)). The trends in allegations made and violations substantiated are reflected in the following table (Table 12).

TABLE 12.—Substantiated Counts of Failure to Comply by Category (FY 2013 and Total).

Violation Type	FY 2013	Total
i. Transfer	0	1
ii. No Summary	0	3
iii. No Inventory	1	12
iv. Not Notify	0	0
v. Not Repatriate	0	6
vi. No Notice	0	0
vii. Not Consult	0	6
viii. Pesticides	0	0
ix. Not Offer to Transfer CUI*	0	0

*CUI = Culturally Unidentifiable Native American Human Remains

Penalty Assessments and Settlement Agreements

A museum receiving a notice of failure to comply has 45 days to take specific action, as set forth in the NAGPRA regulations, after which a penalty assessment may issue. To date, eight notices of penalty assessment, involving eight different museums, have been issued by the Assistant Secretary. In addition, one museum paid an amount to satisfy a settlement agreement. In five additional cases, the Assistant Secretary determined that the institution of a civil penalty was not an appropriate remedy (43 C.F.R. 10.12 (d)). As of the end of FY 2013, \$42,679.34 in penalties and settlements has been paid by nine museums.

Administrative Hearings

A museum receiving a notice of failure to comply or a notice of penalty assessment has 45 days from the date of receipt of the notice to request an administrative hearing. To date, one museum has requested a hearing. As a settlement was reached prior to the hearing, a motion to dismiss the case was granted by the administrative law judge assigned to hear the matter.

Review Committee

Overview

With the exception of civil penalties, the entire NAGPRA compliance process pertaining to collections is within the jurisdiction of the Native American Graves Protection and Repatriation Act Review Committee, which has broad authority under the law to: make recommendations to the Secretary of the Interior on implementation of the Act, including regulations; make findings of fact and facilitate the resolution of disputes; and make suggestions to further decision-making and implementation of the Act.

During FY 2013, the following people served on the Native American Graves Protection and Repatriation Review Committee: At-large member and Chair – Rosita Worl; Members nominated by tribes and Native Hawaiian organizations – Eric Hemenway, Adrian John, Steve Titla, and Mervin Wright, Jr.; Members nominated by national museum and science organizations – Sonya Atalay, Alexander Barker, Linda Lee Farm. During FY 2013, Eric Hemenway and Adrian John served as tribal nominees who were also traditional religious leaders as the NAGPRA statute requires.

During FY 2013, Committee members Eric Hemenway, Rosita Worl, and Mervin Wright, Jr. completed their terms. Appointed to new four-year terms were Steve Titla, as a tribal religious leader, Shannon Keller O’Loughlin, as a tribal and NHO nominee, and Dennis O’Rourke, as the at-large member from an agreed-upon list compiled by the Review Committee in May 2013. Sonya Atalay was reappointed to a term of two years as a nominee from national museum and science organizations. The appointments of Ms. O’Loughlin and Mr. O’Rourke came at the end of the year. They will attend their first meeting in November 2013.

The Review Committee’s Designated Federal Official complies with all filings required by the Federal Advisory Committee Act (FACA). The Review Committee’s current charter runs until November 25, 2014.

For more information on the Review Committee, contact Sherry Hutt, Designated Federal Official (Sherry_Hutt@nps.gov).

On November 28-29, 2012, the Review Committee met in Washington, DC (Figure 2). The meeting was hosted by the National Museum of the American Indian, Smithsonian Institution. At the meeting, the Review Committee received special reports on NAGPRA as requested by and prepared for the Committee, discussed their dispute procedures, and heard from NAGPRA constituents on various issues in repatriation and success reports on progress in NAGPRA.

In addition, the Review Committee discussed its annual report to Congress for FY 2012, as required by NAGPRA (25 U.S.C. 3006 (h)); appointed a subcommittee to draft the Review Committee’s report to Congress for FY 2013. The Report to Congress was finalized in a telephonic meeting on January 10, 2013. The report was delivered to Congress later in the month.

On May 22, 2013, the Review Committee met in a telephonic meeting. The Review Committee discussed and reviewed its dispute procedures and findings procedures; compiled an agreed-upon list of nominees to the Secretary of the Interior for appointment of the at-large member; heard presentations from Federal agencies and Indian tribes on NAGPRA compliance; heard a request for CUI disposition agreement referral to the Secretary of the Interior; and heard public comment on the progress made, and any barriers encountered, in implementing NAGPRA. The photos below, (Figures 3-6), are of the Review Committee at a prior meeting in Santa Fe, New Mexico, repeated here as the earlier report was first posted in draft without pictures.



FIGURE 2.—Review Committee Members (from left) Adrian John, Eric Hemenway, Mervin Wright, Jr., Rosita Worl, Alexander Barker, Linda Lee Farm, and Sonya Atalay Listen to Testimony.



FIGURE 3.—Attendees Listen to Presentations at the Santa Fe Meetings.



FIGURE 4.—Leigh Kuwanwisiwma (Hopi Tribe) Presents Testimony Regarding Repatriation Efforts by the Coconino National Forest; to Right are Kimberly Spurr (Museum of Northern Arizona), Arleyn Simon (Arizona State University), Anna Berg (Museum of Northern Arizona), and Peter Pilles (Coconino National Forest).



FIGURE 5.—Shane Anton and Angela Garcia-Lewis (Salt River Pima-Maricopa Indian Community) Present Public Comments to the Review Committee.

The Review Committee's procedures may be found at <http://www.nps.gov/nagpra/REVIEW/Procedures.htm>. Nominations for vacancies in six of the seven-member Review Committee are solicited through a notice published in the Federal Register. The information on all nominees proceeds through a review process in the Department of the Interior, culminating in a decision and appointment by the Secretary of the Interior. In FY 2013, there were three notices published soliciting nominations.

The Review Committee abides with the Federal Advisory Committee Act (FACA). Public comment is received at all meetings, except the if-needed meeting held for the sole purpose of finalizing the Report to Congress. Although meeting attendees may request to present to the Review Committee at the time of the public presentations, the Review Committee has found that receiving presentations, as a function of the Review Committee, is made more meaningful if presenters identify their needs for time in advance of the meeting and the presentation materials are included in the meeting materials sent to the Review Committee in the month prior to the meeting. As such, the Federal Register notice of meetings requests that public presenters identify their desire to present to the DFO in advance of the meeting and submit materials in advance for distribution to the Review Committee and for posting on the website where they are accessible to the public.

Review Committee Databases of Culturally Unidentifiable (CUI) Human Remains

As part of providing administrative support for the Review Committee, the Program has compiled the Review Committee's inventory of Culturally Unidentifiable Native American Human Remains (CUI), as required by 25 U.S.C. 3006 (c)(5). The Program has entered inventories of the human remains of, at minimum, 121,695 individuals whose cultural affiliation has not yet been determined and 937,292 funerary objects associated with those individuals. To date, the total number of CUI that subsequently have been culturally affiliated is 5,573, and the total number of CUI that have been transferred to a tribe is 3,984. Ideally, as the population of CUI diminishes in future years, the Program's databases will track the MNI not yet in notices or designated as CA. Use of the database in this manner is something the Review Committee might assess in future years.

Requests for a recommendation to the Secretary that the disposition of CUI proceed may still be presented to the Review Committee in limited circumstances, either where 43 CFR 10.11 does not apply or where required under section 10.11. Notices of Inventory Completion for these CUI may publish upon receipt of the Secretary's authorization and prior to transfer of control. 43 CFR 10.11 requires publication of a notice for MNI that are CUI from tribal and aboriginal land of tribes, and those notices do not require prior Secretarial approval. Those CUI of generally known geographical site of removal, that may be known only as "southwest" or "northern plains," where the possible aboriginal tribes have been consulted but the tribes are not necessarily the aboriginal occupants of the site of the removal, fall beyond 10.11 and require approval of the Secretary as recommended by the Review Committee prior to notice publication.

Prior to 43 CFR 10.11, there were 66 disposition authorizations granted by the Secretary out of 83 requests, accounting for 1,568 individuals. See the supplemental report on Review Committee actions on CUI requests by Sally Butts, to be posted to the National NAGPRA Program website under Reports to the Review Committee. In this reporting period, there were four requests for disposition recommendations that fell beyond 10.11. The Review Committee has established guidelines and a matrix for a CUI disposition agreement request, which can be found at <http://www.nps.gov/nagpra/REVIEW/Procedures.htm>, and notice templates are available at <http://www.nps.gov/nagpra/NOTICES/INDEX.HTM>.

All the requests ever referred to and acted upon by the Review Committee concerning the proposed disposition of CUI are available on the Program's website at <http://www.nps.gov/nagpra/REVIEW/INDEX.HTM>.

Intentional Excavation and Discoveries: Notices of Intended Disposition

Notices of Intended Disposition published by Federal agencies in newspapers are submitted to the National NAGPRA Program. To date, 143 Notices of Intended Disposition have been submitted, accounting for 1,047 individuals, 10,964 Associated Funerary Objects (AFOs), 64 Unassociated Funerary Objects (UFOs), and 4 objects of cultural patrimony. A listing of these notices is available on the online Notices of Intended Disposition Database.

Regulations

In FY 2013, action occurred with respect to the following regulatory matters:

- In FY 2012, following review by the Department of the Interior, a rule drafted by the National NAGPRA Program, to be published in the Federal Register as a proposed rule and codified at 43 C.F.R. 10.7, went to the Office of Management and Budget for review. This rule would implement section 3(b) of NAGPRA (25 U.S.C. 3002 (b)) by providing procedures for the disposition of unclaimed human remains, funerary objects, sacred objects, and objects of cultural patrimony discovered on Federal lands after November 16, 1990. Pursuant to section 8 (c)(7) of NAGPRA (25 U.S.C. 3006 (c)(7)), it was developed in consultation with the Review Committee, tribes and the public. The rule will publish on October 29, 2013, in FY 2014, allowing Review Committee comment at its first meeting in FY 2014, and a 60-day comment period, to the end of the calendar year 2013.
- On April 18, 2012, following review by the Department of the Interior, proposed minor amendments to 43 C.F.R. Part 10 to revise the already-published rules for factual accuracy and consistency throughout 43 C.F.R. Part 10 (drafted by the National NAGPRA Program in FY 2011), were published in the Federal Register. A public comment period ended on June 18, 2012. The final rule was published in the Federal Register on May 9, 2013, and became effective on June 10, 2013.
- In FY 2012, the National NAGPRA Program and the Department of the Interior's Office of the Solicitor undertook the first-ever retrospective review of the NAGPRA regulations at 43 C.F.R. Part 10 since their initial promulgation, in 1995. The purpose of this review was to determine whether substantive revision of the regulations is warranted and, if so, how the rules should be revised. Before doing so, the National NAGPRA Program and the Office of the Solicitor conducted listening sessions to give lineal descendants, Indian tribes, Native Hawaiian organizations, Federal agencies, museums, national museum and scientific organizations, Indian tribal historic preservation organizations, the Native American Graves Protection and Repatriation Review Committee, and interested members of the public an opportunity to address these questions. Also, the National NAGPRA Program solicited and received further, written input on these questions from the above constituencies. In addition, the National NAGPRA Program received input on these questions from Native Hawaiian organizations and Native Hawaiian individuals through the Department of the Interior's Office of Hawaiian Relations (OHR). Furthermore, the National NAGPRA Program considered the comments to the proposed minor amendments (see above) that went beyond the scope of the proposed minor amendments, as well as the comments received by the Department during the 60-day comment period on the 2010 final rule relating to the disposition of culturally unidentifiable human remains. In FY 2013, the National NAGPRA Program completed a draft proposed revision of 43 C.F.R. Part 10 for review by the Department.

- Every three years, the regulations implementing NAGPRA are subject to Office of Management and Budget review and renewal under the Paperwork Reduction Act. In FY 2012, the Program timely submitted the NAGPRA regulations to OMB for review and renewal. There is no time limit on OMB review, and in the interim between timely submission and renewal, the regulations are deemed valid. The review and renewal process involves two notice-and-comment periods. The first notice, soliciting comments to the Program, published in March 2012. The second notice, soliciting comments to OMB, published in August 2012. On November 30, 2012, OMB completed its review and renewed the regulations for three years, to November 30, 2015.

For more information on regulations, contact David Tarler (David_Tarler@nps.gov).

Technical Assistance

Training

The Program provides training through either Program-sponsored sessions or events hosted by Indian tribes, museums and Federal agencies (Figure 6). During this reporting period, staff provided training in 15 events (compared to 29 events in FY 2012) to 482 participants (compared to 1,418 participants in FY 2012), in addition to supplying materials for training given by others. For more information on training, contact David Tarler (David_Tarler@nps.gov).



FIGURE 6.—Panel Presenters at the NAGPRA Basics Training, Santa Fe, NM; (from left) Theresa Pasqual (Pueblo of Acoma), Christine Landrum (National Park Service), Megon Noble (Burke Museum), and Melanie O'Brien (National NAGPRA Program).

In FY 2013, the National NAGPRA Program provided training and Program presentations as summarized below (Table 13), with the number of attendees:

TABLE 13.—Training Offered in FY 2013, In-person and Webinar, with the Number of Participants.

DATE	STATE	SPONSOR & TITLE	# ATTENDED
Nov. 9	VA	Southeastern Museums Conference, Annual Meeting: “NAGPRA Inventories”	35
Nov. 27	DC	National NAGPRA Program: “NAGPRA Basics”	64
Jan. 23	webinar	National NAGPRA Program: “NAGPRA Grant Administration”	34
Jan. 31	webinar	National NAGPRA Program: “The Ingredients of a Successful NAGPRA Grant Application”	41
Feb. 6	VA	United South and Eastern Tribes annual conference: “NAGPRA Update”	25
Feb. 14	MA (telephonic)	University of Massachusetts – Amherst: Graduate class: “NAGPRA”	12
Feb. 19	webinar	National NAGPRA Program: “A Live Demonstration of the National NAGPRA Program Databases”	37
Feb. 26	DC	National Conference of State Historic Preservation Officers (NCSHPO) student group: “An Introduction to NAGPRA”	10
March 7	webinar	National NAGPRA Program: “NAGPRA Notices: Types, Process, and Content”	25
March 11	webinar	Miami Tribe of Oklahoma and Indiana Department of Natural Resources: “NAGPRA Basics”	30
April 2	webinar	National NAGPRA Program: “Determining Aboriginal Lands under NAGPRA”	67
May 2	webinar	National NAGPRA Program: “Ask Your NAGPRA Questions: An Open Forum”	20
June 18	DC	National Council for Preservation Education (NCPE): NCPE summer interns: “NAGPRA Basics”	20
July 11	CO	Department of the Interior, Applied Indian Law Training: <i>A Legal Framework for Implementing the DOI Tribal Consultation Policy</i> : “NAGPRA”	40
Sept. 26-27	CO	National Preservation Institute (NPI): “Native American Cultural Property Law”	22
TOTAL			482

Webinars

Of the 15 training events, 7 were webinars (46.7%, as compared with 27.6% in FY 2012). Of the 482 total attendees at FY 2013 training events conducted either in whole or in part by the National NAGPRA Program, 254 received their training via webinar (52.7%, as compared with 22.6% in FY 2012).

Since FY 2012, webinar registration uses “Open Meeting” technology. Recordings of some webinars provide an opportunity for anyone who did not attend a webinar to listen to it. Also, the PowerPoint and other training materials utilized in the webinars are available on the National NAGPRA Program website.

Social Media

As a natural extension of its training tools, in FY 2012, the Program launched a government-branded YouTube National NAGPRA Channel to make the NAGPRA Training Video Series, developed in 2010, available to the public on demand. The Channel features all eight video segments. Topics range from grant-writing tips, explanation of the Review Committee, notices, civil enforcement, consultation, decision-making and first-person narratives on the development of NAGPRA, as well as Program statistics, anecdotal evidence, and in-depth coverage of the entirety of the law.

In FY 2013, there were 2,591 views of the video series, as compared to 982 views in FY 2012, an increase of 264%. The cumulative views to date are 3,573. The three most viewed videos were *NAGPRA* (in a nutshell), *The Development of NAGPRA*, and *Consultation under NAGPRA*. Over 5% of the traffic sources were from a YouTube channel page; 7% were from mobile applications and 84% of the playback locations were from a YouTube watch page, i.e., YouTube’s individual video page. As of September 30, 2013, there were 39 subscribers to the Channel.

Outreach

On a yearly basis, the National NAGPRA Program receives and responds to approximately 2,000 telephonic and electronic inquiries about NAGPRA. In addition, the Program receives letters of interest from prospective student interns and externs.

National NAGPRA Website

The National NAGPRA website (<http://www.nps.gov/nagpra>) continues to be the Program’s primary medium for electronic communication. The website provides easy access to the statute, regulations, technical guidance, training and a variety of information resources designed to support NAGPRA implementation.

Overview

The homepage menu includes links to:

- Law and Regulations
- Documents and Publications,
- Online Databases,
- Notices,
- Grants,
- Training, and
- Review Committee.

During the reporting period, National NAGPRA posted new materials, including: National NAGPRA Mid-Year Report to the Review Committee for FY 2013, National NAGPRA FY 2013 Annual Report, FY 2013 Review Committee Report to Congress, and the FY 2013 NAGPRA Grants Awards. The homepage was updated on almost a weekly basis with information on training events, public comment period on proposed regulations, periodic shutdown of the databases for maintenance days, upcoming Review Committee meetings and numerous matters of interest.

Frequently Asked Questions

The FAQ section of the Program's website (<http://www.nps.gov/nagpra/FAQ/INDEX.htm>) is designed to provide answers to the most commonly asked NAGPRA questions. Topics addressed in the FAQ include general NAGPRA information, as well as specialized subjects, such as inadvertent discoveries, the status of non-federally recognized Indian groups under NAGPRA, and international repatriation. The FAQ section also includes links to the NAGPRA Glossary (<http://www.nps.gov/nagpra/TRAINING/GLOSSARY.HTM>), where many of the specialized terms used in NAGPRA are defined and explained. Links to specific entries in the Glossary also appear throughout the National NAGPRA Website. The NAGPRA Glossary is a working document, and users are invited to submit comments to NAGPRA_info@nps.gov.

Online Databases

National NAGPRA provides online access to seven searchable databases—

1. Native American Consultation Database (NACD),
2. Notices of Inventory Completion,
3. Notices of Intent to Repatriate,
4. Notices of Intended Disposition,
5. Summaries,
6. Culturally Unidentifiable Native American Inventories, and
7. Culturally Affiliated Native American Inventories.

The Online Databases page (<http://www.nps.gov/nagpra/ONLINEDB>) provides a single entry point for accessing all current and future National NAGPRA online databases.

Notices

The Notices page (<http://www.nps.gov/nagpra/NOTICES/>) provides an explanation of the Federal Register notice process, as well as templates and databases for Notices of Inventory Completion, Notices of Intent to Repatriate, and Notices of Intended Disposition.

Documents and Publications

(<http://www.nps.gov/nagpra/DOCUMENTS>) provides a single point for locating the various print and electronic publications produced by the National NAGPRA Program. The Documents and Publications section has links to:

- Maps (Indian Reservations in the Continental United States, Indian Land Areas Judicially Established 1978, and Military Bases in the Continental United States);
- National NAGPRA reports;
- National NAGPRA brochures;
- Forms;
- Templates;
- Reports Requested by the Review Committee; and
- Other Items.

Training

The Training page (<http://www.nps.gov/nagpra/TRAINING>) features a section titled *NAGPRA Webinars*, designed to provide information on a series of webinars related to the implementation of NAGPRA. The *NAGPRA Webinars* section includes registration information and lists upcoming and past webinars. Two new webinar features were added in FY 2012. Users can now register for webinars through an automated process. Additionally, the *webinar* sessions can be *recorded* for future playback. New information has also been added regarding additional NAGPRA trainings presented in partnership with the National Preservation Institute (NPI). Additions to the Training page in FY 2012 included presentations from the NAGPRA Basics Training, as well as the NAGPRA Training Videos.

Law and Regulations

The Law and Regulations section of the Website (<http://www.nps.gov/nagpra/MANDATES/>) has been expanded to include new subsections on Legislative History and Regulatory History (including the preamble sections of proposed and final regulations). For more information about National NAGPRA Program (the Program) information systems, contact Mariah Soriano, National NAGPRA Program Officer, Web and Database Coordinator, (mariah_soriano@nps.gov).

Review Committee

The Review Committee page (<http://www.nps.gov/nagpra/REVIEW/INDEX.HTM>) features new links to access all prior minutes and transcripts, as well as available materials, through the IRMA Portal that allows on-going 24/7 access by the public of all meeting materials.

Information Management

Overview

During the reporting period, the Program focused on the input and audit of data and the online accessibility of data. The Program also continues to reconcile database records and paper files of inventories and summaries. Records are continually being added and checked against originator records to refine, update and audit information. Open access to information on these databases has led to increased communication between museums and Federal agencies on collection responsibilities, the updating of records for better data quality, and thousands of Native American individuals that heretofore were determined to be CUI either being culturally affiliated and listed in notices or listed in notices under the CUI rule at 43 CFR 10.11.

National NAGPRA Program Database

The amount and complexity of the data that the National NAGPRA Program collects and tracks — through its reporting requirements, as well as through ongoing analyses — continues to increase. Currently, nine linked modules (Tribes, Museums/Agencies, Mailing List, Grants, Notices, Inventories, Summaries, Civil Penalties, and Geographic Data) comprise the NAGPRA database in SQL Server. The Program maintains one internal database and several public on-line databases. In FY 2013, NuAxis, LLC, a woman-owned, certified 8(a), small disadvantaged business with over 13 years of IT service support to the National Park Service, implemented the security feature and protection on the main NAGPRA database on the internal server in response to the Cultural Resources Information Technology (CRIT) security requirements. Moreover, NuAxis provided (1) conversion of the existing NAGPRA MS Access database into SQL Server and (2) support for migrating the data to the new format.

Online Databases

The National NAGPRA Program maintains several databases and will be adding additional public access databases in the near future. The National NAGPRA Program receives the compliance documents from Federal agencies and museums, including:

- Inventories of Culturally Affiliated Native American human remains (CA),
- Inventories of Culturally Unidentifiable Native American human remains (CUI),
- Notices of inventory completion published in the Federal Register of Native American human remains, either culturally affiliated or culturally unidentifiable, as available for transfer of control,
- Notices of intent to repatriate items from the summaries, per agreement with tribes,
- Newspaper notices published by Federal agencies for new finds on the land and intended disposition, and
- Summaries of Federal agency and museum collections,

The National NAGPRA Program supports consultation between Federal agencies and museums with tribes in furtherance of the NAGPRA process by making this information publicly available on the web. In addition, other tools to assist consultation are posted on the Program website.

Data Quality

The National NAGPRA Program holds complete paper compliance documents from each institution that has submitted an inventory and/or summary. The Program continues to review and to update summary and inventory records submitted by museums and Federal agencies. This includes, but is not limited to, reconciling records and notices, updating the Culturally Unidentifiable (CUI) records to reflect subsequent cultural affiliations, and including repatriation information in both the Culturally Unidentifiable Native American Inventories and the Culturally Affiliated Inventories Databases as reported by museums and Federal agencies. The reconciliation of paper-to-electronic records during the reporting period provided an opportunity to review and improve the filing system for the paper copies of inventories, summaries, and notices that been submitted to the National NAGPRA Program by museums and Federal agencies. National NAGPRA Program files, systematically catalogued by museum/agency, allow National NAGPRA staff and outside researchers to access inventory, summary, and notice files.

The databases are continuously being updated to add newly submitted records, as well as reconcile Program data to ensure accuracy. New and amended inventories are entered into the databases as they come into the Program, which occurs regularly. The information is cross-referenced against inventory records and notices. Each of the databases is updated as more information becomes available. Corrections, updates, and additions to the databases are made as museums and agencies continue to verify the data that have been entered, or submit revised inventories.

Database Status and Updates

The following databases exist, or are being updated, as follows:

Native American Consultation Database (NACD): This long-standing database provides the names and contact information supplied by each tribe for their NAGPRA contact for consultation. Names and addresses of tribal leaders have been updated from the 2012 Bureau of Indian Affairs Tribal Leaders Directory. This database can be searched by tribal name, tribal representative name, state and county name, and reservation name to yield information on tribes, their status under NAGPRA, tribal representatives for consultation, reservation lands, and Indian Claims Commission decisions. The information in the database is updated when new information on the names of tribes and tribal representatives is received from the Bureau of Indian Affairs, or official contact information is received by National NAGPRA from tribes. An update of this information was completed in September 2013. The National NAGPRA Program is planning to include additional Native American land claims decisions made since the 1980 Final Report of the U.S. Indian Claims Commission.

Consultation efforts are further supported by maps accessible on the Program website, including maps of tribal lands, treaty areas, and the 1906 ethnographic maps of tribal aboriginal areas. Once the area of an item in a collection, or new discovery on the land, is determined, these maps can be used to locate the tribes with a possible interest in human remains or items from an area. The NACD will supply the contact information for the tribe.

Notice of Inventory Completion (NIC) Database: This is a database of published notices of inventory completion, which is updated as new notices are published. For this reporting period, 108 NICs were posted online. This information is helpful to aid in information sharing and informing consultation on other notices. This database can be searched by date, museum/agency, title, and key word.

Notices of Intent to Repatriate (NIR) Database: This is a searchable library of published Federal Register notices pertaining to Native American Unassociated Funerary Objects (UFOs), sacred objects, and objects of cultural patrimony. Thirty-nine NIRs were posted online for FY 2013.

Cultural Unidentifiable Native American Inventories Database: This database was launched in 2005, and has informed disposition decisions on Culturally Unidentifiable individuals, as well as bringing to public view the contents of Culturally Unidentifiable Native American Human Remains (CUI) inventories from which thousands of individuals have been subsequently listed in amended inventories as culturally affiliated, placed in published notices and made eligible for repatriation. To date, the database includes 127,872 Native American human remains and 1,042,337 associated funerary objects. Among the human remains included here are 6,272 that have been culturally affiliated since they were first inventoried as culturally unidentifiable.

Culturally Affiliated Native American Inventories Database: This database is a transmission for public use of data from museums and Federal agencies that have NAGPRA compliance obligations. When the database was first launched in FY 2010, 31,205 culturally affiliated human remains were reported in inventories. To date, it accounts for 57,897 Native American human remains. The increase is due in part to the efforts of the reporting agencies and museums to verify the original submissions and to submit amended inventories. Most of the original inventories dated to 1995. Also, listed in the database are Associated Funerary Objects (AFOs). The number of AFOs is 1,255,174. The Database provides a comprehensive picture of where Culturally Affiliated Native American Human Remains (CA) are housed. Full population of data enables accurate reports of the individuals culturally affiliated but not yet in notices.

Summaries Database: This database of summaries was launched as a public access item in the summer of FY 2010. By posting summaries information on a public access database, tribes will have easily accessible information on those Federal agencies and museums that list them as having an interest in items, as well as to disclose locations of items when summaries were not sent to a particular tribe. The database should foster consultation and inform claims decisions of tribes, as well as provide information to museums of similar collections. Each record will contain the name of every tribe and Native Hawaiian Organization (NHO) that has received a copy of a summary from a museum or Federal agency. In May 2012, the Digitization of NAGPRA Summaries project was completed. The hardcopy files are housed at the National Archives and Records Administration (NARA).

Notice of Intended Disposition Database (NID): Launched in April 2010, this notice database completes the disclosure and public access of the NAGPRA compliance documents for public use, with new discovery information. A Notice of Intended Disposition is published in newspapers by Federal agencies for cultural items excavated or removed from Federal lands. The Federal agency official sends copies of published NIDs to the National NAGPRA Program. The NID database provides this information searchable by agency or by state.

Future Database Development

A report of Review Committee decisions has been supplied in Program reports for several years. These reports have given historical accounting of the parties in a dispute, the general dispute item and the resolution. For purposes of assisting parties, researchers and the general public having an interest in the varied issues and determinations on the matters, a more issue specific database is needed. A searchable-by-topic database of Review Committee opinions has been evolving and has been the project of several volunteer law school student interns. This project is not yet ready for release.

Planned in the future are public access tools including: listings of training opportunities by government, tribal and private providers; resources to support the NAGPRA process for Federal agencies, tribes and museums such as providers of toxic substance detection; listings of state/NAGPRA protocols approved by the Secretary of the Interior; Federal agency NAGPRA contact lists; and other products as may be suggested by the Review Committee to support the NAGPRA process.

State Burial Laws Project

This multi-year project is a partnership with American University Washington College of Law. Over the course of several summers, law student interns/externs under the direction of David Tarler collected the enforcement and compliance laws pertaining to human remains and burials for every state and the District of Columbia, and annotated the laws by topic, in order to enable research across all states or within a particular state. By the end of FY 2010, 44 of the 51 jurisdictions had been annotated. The publicly accessible data was launched on Washington College of Law's website on November 15, 2010, at the *NAGPRA at 20* symposium (<http://www.wcl.american.edu/burial>). In FY 2011 and FY 2012, the project was on hiatus.

The product of this partnership will assist states in the resolution of repatriation and protection of human remains discovered on state lands, and will support further development by states of repatriation protocols consistent with NAGPRA. It will be a useful tool for developers and those who work in the field of National Environmental Policy Act (NEPA) and National Historic Preservation Act (NHPA) compliance.

For more information about National NAGPRA Program information systems, contact Mariah Soriano (Mariah.Soriano@nps.gov).

Records Management

The Program completed scanning NAGPRA summaries in FY 2012 as part of a project for future posting on the Program website. Initially, the digitized files were saved on the WASO cultural resources server. However, the server space allotted to the Program was reaching its maximum capacity. In an effort to minimize taking up shared space, the files were then saved on an external hard drive. In June, the CR Business Office installed a new Virtual server to improve space, speed, and access needs of WASO cultural resource programs. Digitized files are now being archived on the new server.

During FY 2012, the Program developed a records management plan which addressed steps to be taken on storing and archiving NAGPRA case files. Case files document the reporting of human remains and artifacts by Federal agencies and museums. Files contain notices, summaries of collections that may include unassociated funerary objects (UFOs), sacred objects and objects of cultural patrimony, inventories of Native American human remains and associated funerary objects (AFOs), and correspondence. The NAGPRA case files also include indexes and databases containing inventory and notice metadata. Many of these compliance documents date as far back as 1992.

According to the National Archives and Records Administration's (NARA) NAGPRA Records Schedule, NAGPRA case files, advisory committee records, and grants files are considered permanent records. NAGPRA case files include compliance documents and databases. Only upon completion of a project is the case considered inactive and closed.

A project to scan inventories, housed on the Virtual server, began in FY 2012 and is still underway. Similar to the summaries, they will be posted on the Program website in the future. The scanned inventories will be linked to existing inventory entries in the online inventories database. All of the hard copy records will be transferred to NARA. Transfer of all historical records will be concluded in FY 2013. Thereafter, there will be an annual transfer of paper records to NARA, including digitized inventories and summaries, files pertaining to closed-out grants (after their 5-year cycle has run), and notice files for notices published in that fiscal year. Electronic records, such as Review Committee materials, will also transfer to NARA on an annual basis, although some items will be accessible on the National NAGPRA Program website on an ongoing basis. The National NAGPRA NARA Liaison is Mariah Soriano, Mariah.Soriano@nps.gov.

National NAGPRA Program Operations

Externs, Interns

The National NAGPRA Program forms partnerships with the National Center for Preservation Education (NCPE), law schools and universities, and the Cultural Resources Diversity Program within NPS, through the Student Conservation Association (SCA), to offer internships in government service and law school externships, where students earn course credit. Intern/extern projects provide numerous benefits to the National NAGPRA Program and the communities that it serves.

The externs/interns and the projects in progress in FY 2013 were:

NAGPRA Inventories Digitization Project under the direction of Mariah Soriano. Project carried out by Maya Solis and Kirsten Versaggi, Contract Solutions, Inc. of Virginia.

Contracts and Cooperative Agreements

There were five contracts and three cooperative agreements in place during this fiscal year. The advertising and bidding process for all contracts was handled through the National Park Service's contracting office in Denver. The cooperative agreements have concluded, or will shortly, and will not be ongoing.

- The successful bidder on a contract to perform digitizing work on Program documents was Contract Solutions, Inc. of Virginia. That contract will continue into FY 2013, when it is projected to finish digitizing NAGPRA summaries and inventories.
- A cooperative agreement was begun with the Museum of Northern Arizona to complete a study of NAGPRA training and to improve the NAGPRA report products. Those products will be completed during FY 2013 for presentation at the fall meeting of the Review Committee and soon thereafter posting the training product on the National NAGPRA Program website.
- The successful bidder on a contract to work as a civil enforcement analyst was Shannon Keller O'Loughlin of Washington, DC. Those efforts are detailed above in the Civil Enforcement section.
- NuAxis, LLC, was the contractor to implement security feature and protection of the database as well as provide support for data migration.
- Lesa Koscielski Consulting, Rapid City, South Dakota, is in the second year of a five-year bid contract to provide Review Committee and training support. Her Review Committee minutes and transcripts are well known to NAGPRA constituents, as they are posted on the Program's website. Her support of the webinars has enabled the ambitious year in webinar presentations, as well as data produced for reports on NAGPRA activities.
- The cooperative agreement with the National Conference of State Historic Preservation Officers supported the NAGPRA Notice Coordinator, backlog reduction project. That cooperative agreement ended in the first quarter of the fiscal year with the hiring of Alayna Rasile to replace Jaime Lavallee, who left at the end of FY 11. That agreement has now concluded.
- The cooperative agreement with the National Preservation Institute for training, training scholarships for small museums, Indian tribes, and NHOs, and the video production project has concluded. A complete report of agreement accomplishments is attached.
- The National Park Service has an agreement with the National Center for Preservation Education at Cornell to provide interns in various NPS positions. The National NAGPRA Program has been fortunate to hire two interns each year through that program.

National NAGPRA Staff

The National NAGPRA staff roster as of September 30, 2013 is:

Program Manager: Sherry Hutt
Program Officers: David Tarler
Mariah Soriano
Melanie O'Brien
Thomas Cullerton

The National NAGPRA Program (the Program) is assisted by contractors:

Lesa Koscielski
Shannon Keller O'Loughlin
NuAxis, LLC
Contract Solutions, Inc. of Virginia

In addition, the National NAGPRA Program receives support from NPS employees:

Hampton Tucker and Vedet Coleman, grants administration
Kathleen Murphy, IT support
Jane Fu, IT support
Brian Biegler, budget
Makeba Coleman, human resources
Amberleigh Malone, travel and general support
Linda Griffin, contracts, purchase requests, Review Committee payments

FY 2013 Budget

The National NAGPRA Program receives appropriations from Congress for grants and grants administration. Funding is also provided through the National Park Service. The figures below are in thousands and are approximate pending final invoices.

Congressional grants appropriation	\$2,200
(Program support)	\$ 550

Available for Grants FY 2013	\$1,650
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Grants Awarded FY 2013	\$1,630
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National NAGPRA Program Funding

National NAGPRA Program support	\$ 570
Grants administration appropriation	\$ 180
Operations funding from NPS	\$ 150
(does not include indirect support)	

Total of funding sources:	\$ 900
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Operational Expenses

Personnel Compensation:	\$620
Contractors and interns:	\$ 90
Publication (Fed. Reg. & printing)	\$120
Travel (NAGPRA staff, Review Com. training & Review Committee meetings)	\$ 30
Equipment, supplies	\$ 10
Review Committee meeting events	\$ 30

Total Expenses	\$900
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Federal Agency Inventory and Repatriation Data Report FY 2013

TABLE 14.—Federal Agency Inventory and Repatriation Data Report FY 2013.

Note: The data compiled for this table consist of presently available electronic inventory records of culturally unidentifiable (CUI) and culturally affiliated (CA) human remains as of September 30, 2013, and information (notice-by-notice dataset) that agencies provided to the National NAGPRA Program. These datasets were cross-referenced with one another and the results are presented below.

Federal Agency	Remaining in Collection Reported in FY12		Adjusted in FY13*		Total Reported in Collections		Culturally Affiliated (CA)		Culturally Unidentifiable (CUI)		Notices of Inventory Completion		Repatriated (as reported by Agency)		Remaining in Collection FY2013	
	MNI	AFO	MNI	AFO	MNI	AFO	MNI	AFO	MNI	AFO	MNI	AFO	MNI	AFO	MNI	AFO
Reference Letter for Comments Below	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P
Environmental Protection Agency	9	1	0	0	9	1	0	0	9	1	0	0	0	0	9	1
National Guard Bureau, Air National Guard	32	0	64	32	96	32	96	32	0	0	96	32	0	0	96	32
Tennessee Valley Authority	8387	23435	-37	0	8389	23435	359	2565	8030	20870	39	2564	39	2564	8350	20871
US Dept. of Agriculture, Forest Service	5274	31945	-285	0	6584	52850	5907	37977	677	14873	5497	35755	1585	21678	4989	31172
US Dept. of Defense, Air Force	11	27	2	0	42	88	39	88	3	0	38	85	29	61	13	27
US Dept. of Defense, Armed Forces Inst. of Pathology, National Museum of Health & Medicine	170	0	0	0	180	0	22	0	158	0	16	0	10	0	170	0
US Dept. of Defense, Army COE, MCX	2243	17565	-260	0	2936	159377	968	45788	1968	113589	958	45777	953	45538	1983	113839
US Dept. of Defense, Army	181	2334	1	0	287	3892	111	3138	176	754	119	3191	105	1557	182	2335
US Dept. of Defense, Navy	2	0	0	0	220	6744	220	6744	0	0	218	6744	218	6744	2	0
US Dept. of Defense, Navy, Marine Corps	1074	0	0	0	1813	739	1599	739	214	0	1599	1596	739	739	1074	0
US Dept. of Energy	20	97	-1	0	26	1380	7	1341	19	9	7	1341	7	1340	19	10
US Dept. of Homeland Security, U.S. Coast Guard	0	0	0	0	2	0	2	0	0	0	2	0	2	0	0	0
US Dept. of Interior, Indian Affairs	545	62	-460	0	2057	13313	1990	13294	67	19	1993	13295	1972	13205	85	108
US Dept. of Interior, Bureau of Land Management	938	5073	-10	0	2002	19770	1576	19466	426	304	1583	19195	1074	14261	928	5509
US Dept. of Interior, Fish and Wildlife Service	1006	5676	-2	0	1069	6048	322	933	747	5115	165	628	65	372	1004	5676
US Dept. of Interior, Indian Arts and Crafts Board	2	0	0	0	2	0	2	0	0	0	2	0	0	0	2	0
US Dept. of Interior, National Park Service	2671	61534	-17	0	6552	102507	4944	87873	1608	14634	4530	86760	3898	40935	2654	61572
US Dept. of Interior, Bureau of Reclamation	290	108	1	0	855	3450	707	3408	148	42	567	3342	564	3342	291	108
US Dept. of Justice (Federal Bureau of Investigation and Marshalls Service)	9	2	0	0	11	3	9	2	2	1	9	2	2	1	9	2
Total	22864	147859	-1004	32	33132	393599	18880	223388	14252	170211	17438	220307	11272	152337	21860	241262

* Federal agencies are under a continuing duty to report new collections and changes to their prior determinations. Adjustments include amended inventories received, updated repatriation information, and data clean-up.

KEY: MNI=Minimum Number of Individuals; AFO=Associated Funerary Objects

A. Total MNI in Collections as reported in FY12 Report

B. Total AFO in Collections as reported in FY12 Report

C. MNI Adjustments in FY13

D. AFO adjustments in FY13

E. Total MNI in Inventory (CUI and CA)"

F. Total AFO in Inventory (CUI and CA)

G. culturally affiliated MNI

H. culturally affiliated AFO

I. culturally unidentifiable MNI

J. culturally unidentifiable AFO

K. Sum of MNIs in NICs

L. Sum of AFOs in NICs

M. MNI Repatriated (reported by agency)

N. AFO Repatriated (reported by agency)

O. Difference of total MNI in collections (Column E) and total repatriated (Column M)

P. Difference of total AFO in collections (Column F) and total repatriated (Column N)